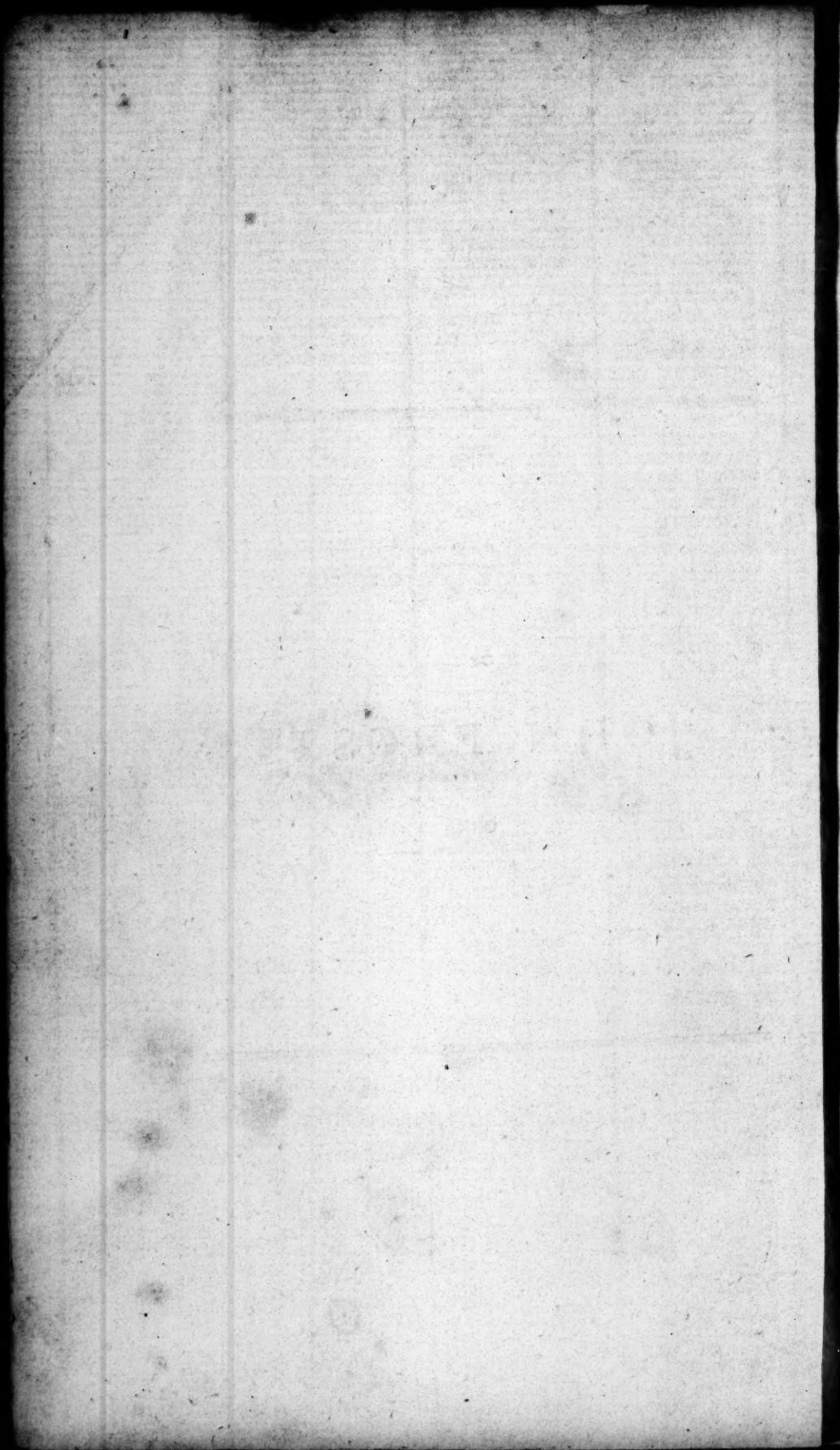


From the original

75
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THE
TRIAL
OF
JOHN FROST.

[Price One Shilling and Sixpence.]



THE

23

T R I A L

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OF

JOHN FROST,

FOR

Seditious Words,

In HILARY TERM, 1793.

TAKEN IN SHORT HAND BY RAMSEY.

L O N D O N:

PRINTED FOR J. RIDGWAY, YORK-STREET, ST. JAMES'S SQUARE;
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1794.

JUN 14 1922

THE
T R I A L, &c.

EASTER TERM, 33 GEO. III.

THE KING AGAINST JOHN FROST.

COPY OF INDICTMENT

Of Hilary Term, in the 33d year of the reign of King George
the Third.

MIDDLESEX. BE IT REMEMBERED, that on Tuesday next after
the octave of the purification of the blessed Virgin
Mary, in the 33d year of the reign of our Sovereign Lord George the
Third, by the grace of God of Great Britain, France, and Ireland, King,
Defender of the Faith, &c. in the court of our said Lord the King, be-
fore the King himself, at Westminster, in the County of Middlesex,
upon the oath of twelve Jurors, good and lawful men of the said County
of Middlesex, now here sworn and charged to inquire for our said Lord
the King, and the body of the same County. It is presented as followeth,
(that is to say) Middlesex (to wit.) The Jurors for our Lord the King,
upon their oath, present that John Frost, late of Westminster, in the
County of Middlesex, gentleman, being a person of a depraved; impious,
and disquiet mind, and of a seditious disposition, and contriving,

practising, and maliciously, turbulently and seditiously intending the peace and common tranquillity of our Lord the King, and of his kingdom, to disquiet, molest and disturb, and to bring our most Serene Sovereign Lord George the III^d. now King of Great Britain, &c. into great hatred and contempt, with all his liege and faithful subjects of this realm, and to alienate and withdraw the affection, fidelity, and allegiance of his said Majesty's subjects from his said Majesty, and to excite and move his said Majesty's subjects to hatred and dislike of the government and constitution, established within this realm, he, the said John Frost, his most wicked contrivances, practices, and intentions aforesaid, to compleat, perfect, and render effectual, on the 6th day of November, in the 33d year of the reign of our Sovereign Lord George the III^d. now King of Great Britain, &c. at the parish of St. Mary-le-bone, otherwise Marybone, in the County aforesaid, in a certain discourse, which the said John Frost, then and there had with divers subjects of our said Lord the King, of and concerning our said Lord the King, and the government and constitution established within this realm, in the presence and hearing of divers liege subjects of our said Lord the King, then and there present, maliciously, unlawfully, wickedly, and seditiously did say, assert, affirm, and pronounce, and with a loud voice did publish these malicious, seditious, and opprobrious English words following, (that is to say) I (meaning the said John Frost) am for Equality; I (meaning the said John Frost) see no reason why any man should not be upon a footing with another, it is every man's birth right; and that the said John Frost being thereupon then and there asked by one of the persons then and there present, how he, the said John Frost, dared to hold such language in any public or private company, and what he meant by Equality; he, the said John Frost, then and there wickedly, maliciously, and seditiously, in the presence and hearing of those subjects, replied in these words, (that is to say) why, no Kings; and thereupon the said John Frost being further asked, if he meant no Kings in this country, he, the said John Frost, wickedly, maliciously, and seditiously, in the presence and hearing of those subjects, answered in these words, (that is to say) "Yes, no King," the constitution of this country is a bad one, (meaning thereby, that he the said John Frost was for having no King in this realm, and that the constitution of this realm was a bad one in having a King,) to the great scandal and contempt of our said Lord the King and his laws, to the evil example of all others in the like case offending, and against the peace of our said Lord the King, his crown and dignity. And the Jurors aforesaid, upon their oath aforesaid, do further present, that the said John Frost being such a wicked and evil disposed person as aforesaid, and further contri-

ving

ving and intending, as aforesaid, afterwards, to wit, on the same day and year last aforesaid, at the parish aforesaid, in the county aforesaid, in another discourse, which the said John Frost then and there had with divers liege subjects of our said Lord the King, of and concerning our said Lord the King, and the government established within this realm, in the presence and hearing of divers other liege and faithful subjects of our said Lord the King, then and there present, maliciously, seditiously, and wickedly did say, assert, affirm, and pronounce, and with a loud voice did declare and publish these other malicious and seditious English words following, (that is to say) I (meaning the said John Frost) am for Equality; and the said John Frost being thereupon, then and there asked by one of the persons then and there present, if he, the said John Frost meant thereby Equality, and no King in this country; he, the said John Frost then and there, in the presence and hearing of those subjects, maliciously, and seditiously replied, and with a loud voice published these words following, (that is to say) Yes, no King, and there ought to be no Kings, (meaning thereby amongst others, that there ought to be no King in this realm) to the great scandal and contempt of our said Lord the King and his laws, to the evil example of all others in the like case offending, and against the peace of our said Lord the King, his crown and dignity. And the Jurors aforesaid, upon their oath aforesaid, further present that the said John Frost, being such wicked and evil disposed person as aforesaid, and wickedly, and seditiously devising and intending as aforesaid, afterwards (to wit) on the same day and year last aforesaid, at the parish aforesaid, in the county aforesaid, in the presence and hearing of divers other liege and faithful subjects of our said Lord the King, then and there present, maliciously, seditiously, and wickedly did utter, and with a loud voice pronounce, assert, and affirm, that there ought to be no King in this country, (meaning this kingdom) to the great scandal and contempt of our said Lord the King and his laws, to the evil example of all others in the like cases offending, and against the peace of our said Lord the King, his crown and dignity,

Witnesses,

JOHN TAITT,	} Both sworn in Court.
PAUL SAVIGNAC,	

To this indictment, the Defendant on the 15th day of February, 1793, gave bail, and pleaded Not Guilty.

MONDAY, MAY 27th, 1793.

As soon as the Court (which was a very crowded one) was opened, the *Special Jury* were called over; eleven only appearing, the Attorney General prayed a tales, and the name of William Powell being mis-named, the associate applied to Mr. Frost, to know if he had any objection to admit Mr. Powell to be sworn as one of the Jury? Mr. Frost replied, Mr. Powell was unknown to him, and perfectly indifferent, and therefore he desired the Court would determine it.

The following Special Jury were sworn,

- 1 THOMAS BROOKES, of Bedford-square, **FOREMAN.**
- 2 JOSEPH BALLARD, of Bedford-row,
- 3 EDWARD PHILLIPS, of Great James-street,
- 4 WILLIAM BLASSON, of Hatton Garden,
- 5 THOMAS LANGTON, of the same,
- 6 THOMAS DEA, of Percy-street,
- 7 PETER DAWSON, of Goodge-street,
- 8 THOMAS OLIVER, of Devonshire-street,
- 9 THOMAS SANDFORD, of Paradise-street,
- 10 RICHARD CARTER, of Paddington-street,
- 11 JOSEPH HOBBS, of Margaret-street,—**ESQUIRES.**
- 12 MICHAEL ROBSON, **TALESMAN.**

Then the Indictment was opened by **Mr. WOOD.**

MR. ATTORNEY GENERAL,

Gentlemen of the Jury,

Though I have the honour to attend you in my official character, it will not have escaped your attention, that this charge is brought against the present Defendant by an Indictment.

Gentlemen, The transaction, with the guilt of which the Defendant is charged, happened upon the 6th of November last. I hope I shall not be thought guilty of stating any thing that can be considered as improper to state, when I call your attention to a fact, that is notorious to the whole country; that about that period public representations had been made, that the minds of men were alienated from that constitution, which had long been the subject of the warmest encomiums of the best informed men in this country; which we have been in the habit of considering as the best birth-right which our ancestors could have handed down to us, and which we have been long in the habit of considering as

the

the most valuable inheritance that we had to transmit to our posterity. This constitution had been represented, as that, from which the affections of the country had become altogether alienated ; we were told that this disaffection was moving along the country with the silence of thought, and something like a public challenge was written to meet men who are fond of other systems, by fair appeals to the public, who are finally to decide upon every question between every individual of this country, and the government.

Gentlemen, The Attorney General of that day, who found himself by the duty of his office called upon, to watch over, what he considered, a property and inheritance of inestimable value, thought it necessary to meet this sort of observation, by stripping himself of what belonged to him in his official character ; and appealing, as far as he could appeal, to the tribunals of the country, which the wisdom of the constitution had established, for the purpose of protecting men from improper accusations ; and he did not therefore call upon those whom he thought proper to prosecute, by the exercise of any official authority of his own, putting them and himself at issue upon these points, as it were before a Jury of the country, but he directed indictments to be carried to the Grand Juries of the country, to take their sense upon the subject, and to have their opinion, whether it was fit that persons propagating such doctrines, as this Defendant stands charged with, should, or should not be suffered in this country, to state them with impunity ?

Gentlemen, In consequence of this determination, the present Defendant stands indicted ; and before I state the words to you, I think it my duty to mention to you, that he is now to be tried upon the second Indictment, which a Grand Jury of this country has found. When the first indictment was carried before the Grand Jury, this Defendant was abroad ; a warrant was issued for his apprehension, and he returned to this country in the month of February last : he appeared to the indictment, and gave bail to it ; by some accident he had been indicted by a name which does not belong to him, and pleaded the misnomer in abatement. Another indictment was carried before the second Grand Jury, who found that second indictment without any hesitation, and it is in consequence of that proceeding, that he is called upon to-day, to deny the truth of the charges which this information contains, or to state to you upon what grounds he is to contend, that his conduct as stated in this indictment is to be considered as legal.

Gentlemen, The transaction which the indictment charges him with, happened on the 6th of Nov. last ; you will find from the conversation, as it will be given in evidence to you, that Mr. Frost had, I think, re-

~~turned from France shortly before~~; that he had dined with a set of gentlemen, whom I believe to be very respectable, at the Percy coffee-house upon that day; he came into the public coffee-house between nine and ten in the evening, as nearly as I am able to ascertain the time, and a gentleman who had long been acquainted with him, to whom I believe I may venture to say, Mr. Frost was certainly under no disengagements in life; seeing him, addressed him as an acquaintance, asked whether he was lately come from France, and how matters went on in that country? Mr. Frost told him he was lately come from France, and expected soon to go there again; he then added the words that have been read to you from the indictment; I am for Equality; I can see no reason why any man should not be upon a footing with another: it is every man's birth-right.

Gentlemen, Some persons present in this coffee-room, the general conduct of all of whom, I think, will have some influence upon your judgment, with respect to the mind with which Mr. Frost conducted himself upon that day, immediately asked him, what he meant by Equality? to which he answered, *why, I mean no King.* What, dare you to own in any public or private company in this country such sentiments? Yes, *I mean no King,* the constitution of this country is a bad one.

Gentlemen, What were the other particulars of the conversation that passed, I am unable to state to you, but you will find the zeal and anxiety which a number of respectable persons acted with upon this occasion, made it very difficult for Mr. Frost to pursue this sort of conversation any further; and in what manner Mr. Frost left the coffee-house, and under what feelings and apprehensions in the minds of those who were there, I shall leave it to you to collect from the witnesses, rather than attempt to state it myself.

Now, Gentlemen, it is for you to decide whether in cases of this nature, prosecutions shall be carried on against defendants, who think proper to use language so contemptuous to the sovereign of the country; and surely I need not in this place contend, that any thing that is contemptuous to the sovereign of the country, any thing grossly reflecting upon the administration of the magistracy of this country, or persons holding the offices of magistrates, according to the law of this country, such as it is, and such as I hope it will continue to be, has never been suffered with impunity.

Gentlemen, When you consider, not merely whether the prosecution is to produce a verdict of guilty, but whether the prosecution is expedient and proper, it is not unnecessary to advert to the circumstances of the times, and the temper with which the particular Defendant may have

have proceeded, who is charged with guilt, by an indictment brought before a Jury of his country.

Gentlemen, This doctrine of Equality, and no King, has been held in this country, which never did, and which, I hope, never will interfere with the right of free, of temperate, of sober, and of ample discussion, conducted under those restraints, upon every political subject, in which the interests and the happiness of Englishmen can be concerned : but, Gentlemen, when a doctrine of this sort, Equality and no King ; a doctrine which either means this, or it means nothing ; that there shall be no distinction of ranks in society, is brought forward, under circumstances, so peculiar as those which attended the statement of this doctrine by the Defendant, it becomes the duty of those, who are entrusted with watching over the laws of this country, under the controul of Juries, who are finally to decide between them and individuals, who may be charged with a breach of them, at least to do their duty, in stating this to the public, that no one *shall dare* to hold language like this, without being prepared to tell a Jury of this country, upon what grounds he conceives himself justifiable in holding it, under the circumstances of the present case.

Gentlemen, Advert a little to the time—This was in November, 1792. There does not exist upon the face of the earth, I hope, a man more zealously attached to this doctrine than I am. I mean, that every man in this country, and in every country, has an equal right to equal laws, to an equal protection of personal security, to an equal protection of personal liberty ; to an equal protection of that, without which, it requires no reasoning to prove, that neither personal security, or personal liberty ever can exist. I mean to an equal protection of property—that property which the labour of his life, under the blessing of Providence, may have gained to him, or which the superior kindness of Providence may have given him, without bestowing the labour of life, in order to acquire it : all this sort of Equality, *is that which the constitution of Great Britain has secured to every man who lives under it*, but is not the Equality which was connected with the doctrine no King, upon the 6th of Nov. 1792.

Gentlemen, In that country, from which it appears, from this conversation, Mr. Frost came, and to which, it appears from this conversation, that he expected to go, in the year 1789, had framed, what was called a constitution, and almost every thing that was valuable in it, was borrowed from the constitution of this country in which we live, which had provided for the equal rights of man to equal laws ; it had laid down in doctrine, however ill or well it supported the principle, the equal right of every man to the protection of his personal liberty, of his personal security, and of his property. But in 1792, that first year

of Equality, as it was called, a different system of equality, connected materially with this system of No King, had been established. A system, which if it meant any thing, meant this, it meant equality of property, for all other equality had been before provided for.

Gentlemen of the Jury, it is every man's birth-right to have a certain species of equality secured to him, but it neither requires reasoning, nor is it consistent with common sense, and cannot be consistent with reason and common sense, because it is not consistent with the nature of things, as established by the Author of nature, that any other system of equality should exist upon the face of the world.

Gentlemen, this Equality recommended by this gentleman, advisedly as I think, you will be satisfied in this transaction of the 6th of November, 1792, is a system, which has destroyed all ranks; is a system, which has destroyed all property; is a system of universal proscription; is a system, which is as contrary to the order of moral nature, as it is contrary to the order of political nature; it is a system, which cuts up by the roots all the enjoyments that result from the domestic relations of life, or the political relations of life; it is a system, which cuts up by the roots every incentive to virtuous and active industry, and holds out to the man, who chooses to live a life of profligacy and idleness, that he may take from him, who has exerted through life a laborious and virtuous conduct, those fruits which the God of Justice, and every Law of Justice, has endeavoured to secure to him. This is the only sort of Equality that can be connected with this doctrine of No King, upon the 6th of November, 1792.

Gentlemen, I am ready to agree, that where the charge is, that words have been spoken, it is fit for those who prosecute for the public to remember, that in that situation, they are in a certain degree advocates for the Defendant; for no man can do his duty who wishes to press a Defendant, charged upon the part of the Public, with acting more improperly than he shall appear, upon the candid examination of the circumstances to have acted; it is fit for me also to observe, that the degree of criminality of these words will depend very much upon the temper, the circumstances, the quo animo with which this gentleman thought proper to utter them.

Gentlemen, I will not depart from this principle, which I have before stated, that if men will dare to utter words, expressions of more serious import, than those which produced the mischief, to which I have been alluding in other places, it will be the duty of persons in official situations to watch for you and the public, over that which they conceive to be a blessing to you and the public, at least to inform those gentlemen, that they

-they must account for their conduct, it will be for them, if they can, to account for it satisfactorily.

Gentlemen, you will hear from the witnesses, with what temper, with what demeanor, and in what manner, these words were uttered, and I allude again to that which will be described to you, I mean the feelings of the persons present, as some degree of evidence, which will have its due, and not more than its due weight, in your minds.

Gentlemen, I will read to you the words of Mr. Justice Foster, as containing the principle upon which, though the law holds them as an exceeding high misdemeanour, it has not thought proper to consider it as a crime of the magnitude of High Treason. He says, as to mere words, supposed to be treasonable, they differ widely from writings in point of real malignity and proper evidence. They are often the effect of mere heat of blood, which in some natures, otherwise well disposed, carrieth a man beyond the bounds of decency or prudence; they are always liable to great misconstruction from the ignorance and inattention of the hearers, and too often from a motive truly criminal. *Loose words, therefore, not relative to any act or design,* are not overt acts of treason, but words of advice or persuasion, and all consultations, for the traitorous purposes treated of in this chapter, are certainly so; they are uttered in contemplation of some traitorous purpose, actually on foot or intended, and in prosecution of it.

Gentlemen of the Jury, It is competent to Mr. Frost, and he will give me leave to say, I think it is incumbent upon him, having made use of words of this sort, to state to you, that in the sentiment which that language conveys, he does not express those sentiments by which his general conduct in life is regulated. For aught I know, he is otherwise well disposed, and I am sure, if evidence of that sort is given to you, you will feel the propriety of giving to it, not only a candid, but you have my leave to give it the very utmost consideration that can possibly be given to it. Gentlemen, you observe too, that words are not made treason, because words may be spoken to by witnesses, from a motive truly criminal. You will be to judge, whether the evidence of the witnesses to be called to you to-day, proceeds from motives truly criminal, or whether laudable zeal to the constitution of their country is not their only motive for stating to you the conduct of this Defendant.

Gentlemen, there is another circumstance. I will say but a word to you upon it, that is this, that the propriety of prosecuting for words of this sort depends a *great deal upon the time and season* at which those words are uttered.

Gentlemen, we know, that in this country the legislature found it necessary to interfere, and by a positive law to enact, that any man who

should dare to affirm, that the King and Parliament could not regulate the succession to the Crown, should be guilty of High Treason ; God forbid the time should ever come, and I do not believe it ever can come, when the legislature acting upon the same principle, shall be obliged to say, that if it is at this hour High Treason for men deliberately to affirm, that the King and Parliament of this country cannot regulate the succession to the Crown, it shall be innocent for men to say, that the King and Parliament of this country have no right to continue any government in this country. Why then, gentlemen, if this doctrine of Equality and No King, has been attended with such consequences as it is notorious to all mankind it has been attended with, the notoriety of the fact renders it incumbent upon those whose duty it is to bring such Defendants before a Jury of their country, for that Jury to say, as between the country and individuals, whether under such circumstances, as will be laid before you, he is to be publicly permitted to hold such doctrines as those which are stated, in a manner that seems to evince, that they are not stated for any useful purpose ; but that they are stated, for the purpose of trying whether there is any law in this country, that will secure the government of the country from attacks, which mean nothing but to display the audacity with which men dare to attack that government ? And if you shall be convinced upon the whole of the evidence before you, that the case is such as I have stated it to be, this I am sure of, that you will duly weigh the consequences of the verdict ; however you shall be disposed to give it, for the Crown, or for the Defendant ; and I am sure, *the Crown, upon the temperate consideration of what the Jury does, will not be dissatisfied with that verdict*, let it be what it may. The constitution of this country, if it be excellent, if it has really handed down to us those great and invaluable blessings, which, I believe, ninety-nine persons out of a hundred are convinced it has, and if it be a matter of anxiety to transmit them to our posterity, you will remember, that the stability of those blessings finally and ultimately depends upon the conduct of Juries. It is with them, by their verdicts, to establish their fellow-subjects in the enjoyments of those rights ; it is with them to say, in what cases those rights have been invaded ; and the same constitution that has left it to them to say in what cases those rights have been invaded, has also bound every honest man to say, that when they have given their decision upon it, they have acted properly between the country and the individual who is charged with the offence.

Gentlemen, under these circumstances, I shall proceed to lay the case before you, and I have only again to repeat, if you shall find upon a due consideration of this case, that this is an hasty, an unguarded, and unadvised expression of a gentleman otherwise well disposed, and who meant

no real mischief to the country, you will be pleased with my consent, to deal with the Defendant as a person, under those circumstances ought to be dealt with. I never will press a jury for a verdict, in a case in which whatever may be the strictness of the law as between man and man, acting upon moral and candid feelings, it ought not to be asked for, and having given you my sentiments, I leave the Defendant in your hands:

EVIDENCE FOR THE CROWN.

JOHN TAITT, of Oxford Street, Upholsterer, sworn.

Examined by Mr. SOLICITOR GENERAL.

Q. Do you know Mr. John Frost?

A. I never saw him but *that evening* in my life.

Q. What evening?

A. The 6th of November last.

Q. Where were you that evening?

A. In the Percy Coffee-house.

Q. Who was with you?

A. Mr. Paul Savignac.

Q. Were there any other persons in the Coffee-house?

A. Yes, several gentlemen.

Q. Can you name any?

A. Mr. Yatman was there, Mr. Bullock, there were not many that I knew.

Q. Did you see Mr. Frost there?

A. Yes.

Q. At what time?

A. About ten in the evening.

Q. Where did Mr. Frost come from?

A. He came from a room above stairs with several gentlemen into the coffee-room.

Q. What did you first perceive with respect to Mr. Frost?

A. He addressed himself, I think, first to Mr. Yatman, but that I am not certain, he was asked how long he had been returned from France.

Lord Kenyon. Was he asked that by Mr. Yatman?

A. By Mr. Yatman or some of the other gentlemen; he said, he was very lately returned.

Mr. Solicitor General. What did he say more?

A. He asked him what they were doing there, and he said, things were going on very well there, they were doing very well.

Q. Did you hear him say any thing more?

A. That he should very shortly return there.

Q. What more?

A. There was nothing more till a few minutes after, he went into the body of the coffee-room, two or three boxes from where I was; I heard him exalting his voice, and he was for Equality—"I am for Equality"—upon which I got off my seat, and I went forward, and inquired "Who are you, Sir?"

Lord Kenyon. You asked him?

A. Yes, because I did not know him. Mr. Yatman answered, that is Mr. Frost; upon which I asked him, how he dared to utter such words? He still continued, I am for Equality and no King. Mr. Yatman asked him, if he meant no King in this country, and he said, Yes, no King or no Kings; I rather think it was in the plural number. That the constitution of this country was a *very* bad one.

Q. Did he say any thing more?

A. He said nothing more. I said, he ought to be turned out of the coffee-room; upon which he walked up the room and placed his back to the fire, and wished, I believe, rather to retract, if he could have retracted, what he had said; but he still continued, he was for no King and he was for Equality. He quitted the room very shortly after by a general hiss from all the company.

Q. How long did he continue there?

A. I suppose not above five minutes.

JOHN TAITT—*cross-examined by Mr. ERSKINE.*

Q. You went, I suppose, to the coffee-house just in the ordinary course of your recreation, I take for granted?

A. It is a coffee-house I very seldom go to.

Q. How came you there that night?

A. I went there to sup.

Q. You have been there often?

A. Very often.

Q. Then of course you went to have your supper and read the newspaper?

A. Exactly so.

Q. I take it you remember all the conversation that passed between Mr. Savignac and you that night?

A. I believe Mr. Savignac wrote down to the same effect.

Q. I dare

Q. I dare say you wrote down this ?

A. I wrote none down.

Q. But do you recollect the conversation between Mr. Savignac and you ?

A. No.

Q. Mr. Frost had been above stairs ?

A. Yes.

Q. With whom he was dining you do not know ?

A. No.

Q. Can you get out of that room without going through the coffee-room ?

A. I don't know.

Q. Don't you know the contrary ?

A. I do not.

Q. You must have seen people coming from above stairs, having frequented that house ?

A. Yes.

Q. Then you know the way from up stairs is through the coffee-room ?

A. Yes.

Q. You say, you are not certain that Mr. Frost addressed himself first to Mr. Yatman ?

A. No, I am not.

Q. *The first of the conversation, you will venture to swear to, was a question put by Yatman to him?* — A. Yes.

Q. Will you venture to swear, that when Mr. Frost came down stairs, he was not going strait through the coffee-house into the street, till Mr. Yatman stopped him, and asked him that question ?

A. That I cannot say.

Q. What time was it ?

A. About ten in the evening, rather before than after.

Q. Mr. Frost was perfectly sober, I suppose ?

A. I cannot say, whether he was or not.

Q. There was a good dinner, where a number of gentlemen had been present ?

A. *I cannot say.*

Q. You saw other gentlemen come down ?

A. Yes.

Q. Were they not all drunk ?

A. They might be, I don't know.

Q. He asked Mr. Frost how long he had been from France, and he told him he was lately returned; *The conversation went about France?*

A. Yes.

Q. Will you venture to swear, the conversation did not continue between Mr. Yatman and Mr. Frost from the time it first began, till the time you heard him say, he was for Equality ?

A. I cannot say, I did not attend to it till he exalted his voice, and said, he was for Equality.

Q. Then what question was put to him, and what turn the conversation was taking, you don't know, till you heard him exalt his voice ?

A. No.

Q. Then you did not know whether the conversation respected France or England ; but hearing the word Equality, you was all a-gog ?

A. No, I was not all a-gog.

Q. You was in another part of the coffee-house ?

A. I was in the next box.

Q. By your own account you don't appear to have been very attentive, but hearing his voice louder than before, you immediately went up, and said to him, how he dared to utter such words ?

A. Yes.

Q. You said that in a tone of voice that shewed that you felt yourself insulted ?

A. Yes.

Q. Before you knew to what his words alluded, for he had been talking about France, you know, and how things went on there, and you immediately then interfered. I believe several other persons interfered in the same insulting manner ?

A. Yes, I believe they did.

Q. At this time you make use of an expression which probably may be owing to my dullness, but I cannot understand you. You said, he seemed to wish to retract, but still continued to do the same thing over again ?

A. He did not say much.

Q. You said, he ought to be put upon the fire, you know ?

A. Yes.

Q. Somebody talked of sending for a Constable ?

A. Yes, and he said, every man there was a constable.

Mr. Solicitor General. Did Mr. Frost appear to be disabled by liquor ?

A. If I had known him before I should have been better able to say, but I think, there was hardly a doubt but he might; but as I don't know, I cannot say whether he was or no, but I rather believe he was.

Q. Did he repeat the words more than once ?

A. I don't think he did.

Q. You said, he wished to retract, but still continued, that he was for no King and Equality ?

A. He did not repeat that twice.

Q. What

Q. What did you mean by saying, he wished to retract?

A. I rather thought he was sorry for what he had said; that is what I mean by it.

PAUL SAVIGNAC, of Carshalton, in Surry, sworn.

Examined by Mr. BEARCROFT.

Q. Do you remember being at the Percy coffee-house with Mr. Taitt, upon the 6th of November last?

A. Yes.

Q. Do you remember seeing Mr. Frost there?

A. I saw a person whom they called Mr. Frost, but I never saw him before nor since.

Q. That gentleman that sits there? (*pointing to Mr. Frost.*)

A. I cannot say.

Q. What time in the evening did you see him in the room?

A. Between nine and ten.

Q. Did you hear any particular expressions he made use of?

A. When he passed the box I was sitting in, he was in the company of Mr. Yatman, and I heard him say, I am for Equality and no King.

Lord Kenyon. What did he say?

A. He was not in the box; he was walking up the middle of the coffee-room, and he said, I am for Equality and no King. I heard Mr. Yatman press his brow and say, what Equality and no King in this country! upon which Mr. Frost answered, yes, no King, there ought to be no King. I heard nothing more in conversation pass. I stepped from the box, and asked him, how he dared to hold a doctrine of that kind in a public coffee-room? he made some reply as before, that he was for Equality and no King. I told him, if he was not under the protection of the very King he was then reviling, I would kick him out of the coffee-room. Upon which he asked me, if I doubted his courage. I told him, certainly he would not have made use of such expressions without, because I should have supposed it to be an insult to make use of such expressions in a public coffee-house. He was then handled by other gentlemen, and I sat down; but very soon afterwards he left the room, under the execrations and hisses of all the room.

Q. Did you see him when he first came down into the public coffee-room?

A. I don't know that I might. I saw him soon after I saw Mr. Yatman.

Q. Recollect yourself, and tell me how long you can speak to it, as near as you can—recollect how long he was in the public coffee-room before he went away?

A. Not

A. Not ten minutes, not more I am sure.

Q. I would ask you whether this conduct and these expressions of his produced any, and what kind of notice in the company?

A. That every gentleman there was under the same idea with me, that he ought to be kicked out of the coffee-room.

PAUL SAVIGNAC—Cross-examined by Mr. SERJEANT RUNNINGTON.

Q. You don't live in that neighbourhood, do you?

A. No, in Carshalton, in Surry.

Q. How long had you been in the coffee-room, before you saw Mr. Frost come in?

A. He was up stairs.

Q. Was he obliged to come through the coffee-room from up stairs, to go into the street?

A. I cannot say.

Q. How far were you from Mr. Yatman?

A. They were walking up the coffee-room close to me.

Q. Did any thing pass from Mr. Yatman to Mr. Frost?

A. Yes.

Q. Before Mr. Frost spoke at all?

A. No.

Q. Do you recollect Mr. Yatman saying, as he came down stairs, well, Mr. Equality, where are you going to?

A. No, I do not.

MATTHEW YATMAN, of Percy-street, sworn.

Examined by Mr. BALDWIN.

Q. Was you at the Percy coffee-house, on the 6th of November, in the evening?

A. I was.

Q. Did you see Mr. Frost there?

A. I did.

Q. You have long known Mr. Frost?

A. Mr. Frost was in the commission for watching and lighting the street in which I live, and I am one of the commissioners.

Q. Tell us what passed between Mr. Frost and you at the Percy coffee-house?

A. *He came from the room where he dined,* and he came into the coffee-room; he came up to where I was, and knowing he was lately come from France, *I said, well, how do they go on in France?* he seemed to be stimulated at the question, and he extended his arm, and exalted his voice sufficiently

sufficiently to be heard up stairs, if the door had been opened, I am for Equality and no King ; what, *says I, no King in this country,—no King as loud as he could hollow.*

Q. Did any thing more pass between you and your *old friend* ?

A. No, I had enough. Upon this, the gentlemen in the coffee-room seemed to be *stimulated* with anger, and Mr. Taitt and Mr. Savignac got up, and were so enraged at him, I supposed they would have kicked him out of the coffee-room, and I believe it would have been done, but one gentleman got him to the door, and *prevailed* on him to go out.

Q. Did he say any thing more that you recollect ?

A. No, it was all confusion after that.

Q. And the manner of it was as you have described it ?

A. Yes.

Q. With *vehement* ?

A. Yes, he was very warm.

MATTHEW YATMAN,—*Cross-examined by Mr. ERSKINE.*

Q. It was all general confusion after Mr. Taitt had interfered ?

A. Yes.

Q. I believe Mr. Frost said this extremely loud, that he might have been heard up stairs ?

A. I am just of that opinion.

Q. And then it was that Mr. Taitt interfered ?

A. Yes.

Q. After that all was confusion ?

A. Yes.

Mr. Baldwin.—Though there was confusion afterwards, there was not when he spoke those words ?

A. No.

Q. Did he speak it coolly or otherwise, excepting the warmth of which you have spoken. How was he in his understanding ?

A. *He spoke it very distinctly, and wished to be heard by every body.*

Q. Was he sober or no ?

A. Certainly he was not drunk.

Mr. Erskine.—It was 10 o'clock, was it not ?

A. Between 9 and 10. I don't know whether it was quite ten.

Q. Do you mean to say he was just as sober as he might be at 12 o'clock in the day ?

A. That he *walked*.

Q. Do you mean to stake your character and your *bonoù* before the Jury, by saying he was as sober as if you had seen him before dinner ?

A. I don't say he was sober.

Q. I ask you, whether you mean to stake your *character* and your honour before the Jury, by saying that he was as sober as at 12 o'clock at day?

A. I should not have known that he was not by his conversation and his walk, whether he was in his right senses when he used those words, is another thing.

Q. Do you mean to say he spoke in the manner, and the pitch of voice like a sober man?

A. He was stimulated.

Q. He extended his arm?

A. Yes.

Q. You think that a mark of sobriety do you?

A. I don't think it a mark of good sense.

Examined by Mr. Wood.

Q. Was you at the Percy coffee-house on the 6th of November last?

A. I was.

Q. Did you see Mr. Frost there?

A. I did.

Q. Be so good as tell us whether you heard him say any thing, and what it was?

A. I did not attend to the conversation, till I heard what I thought very treasonable words, upon which I committed them to paper: I wrote it at the time with an idea of having it signed.

Q. Be so good as to read them slowly?

A. (reads) Percy coffee-house, 6th of November, 1792. We, the undermentioned do hereby certify, that at about 10 o'clock this evening, Mr. John Frost came into this coffee-room, and did then, and in our presence openly declare, *that he wished to see Equality prevail in this country*, and no King in a loud and *factions* way, and upon being asked, whether he meant that there should be no King in this country; he answered Yes. That is all I recollect of *seditions words*.

Lord Kenyon.—You put this down with a view that they might have been signed?

A. I did.

Mr. Wood.—Was Mr. Frost drunk or sober at that time?

A. I never saw Mr. Frost before that time, but he did not appear to me to be a man in liquor, not in the least so.

Q. Have you ever seen him at any other time?

A. I have frequently since.

Q. Where

Q. Where may that be ?

A. In Paris.

Q. How soon after this was it ?

A. I arrived at Paris on the 27th of December, I think to the best of my recollection, and I saw him a few days after my arrival there.

Mr. Erskine.—We have surely nothing to do with what passed in Paris?

Lord Kenyon.—I think I may hear it; if words in this country constituting a different offence, that might be prosecuted here; but this is quite a new question. In common slander this is always allowed?

Mr. Erskine.—I confess, I cannot help entering my protest against it, and upon this plain principle, that it may be recollect that that question did arise, and that the Defendant may have the benefit of it.

Mr. Attorney General.—I believe Mr. Erskine has mis-understood what I meant by putting the question. I meant merely whether he had ever seen Mr. Frost at any future time any where, and whether from any conversation he had with him, he can take upon him to judge of the state in which Mr. Frost was upon the 6th of November, 1792; that is, comparing his modes of conversing at future times, near, or distant from that 6th of November, 1792. I don't wish to ask a single question respecting Mr. Frost's conversation since that time, whatever the law may be upon the subject. I have a still more important reason for not asking it.

Mr. Erskine.—My objection is by no means cured, but rendered still more important. The question was this, Whether the witness shall be allowed to say from conversations with Mr. Frost?

Mr. Bullock.—I believe I can save you a great deal of trouble. I know nothing about it.

Lord Kenyon.—I am clearly of opinion that it might have been asked in the way in which the Attorney General put it, if by his general deportment afterwards he could judge whether he was in liquor or not. I have not the least particle of doubt.

Mr. Erskine.—Nor I neither, certainly upon that point, my Lord.

Q. Where have you seen him since?

A. At Calais the first time.

Lord Kenyon.—I will not have all his life and conversation brought forward, I would not have him give evidence from conjecture or knowledge of what he was doing at Paris; all that I mean to allow is, whether from his general deportment at other times, he thinks he was sober at that time?

Q. How many times might you see him, think you?

A. It is impossible to say, I have frequently seen him at a coffee-house.

Q. Are you able to judge from that, whether he was sober or not when you saw him at Percy-street coffee-house?

A. He was what you may call a sober man.

Mr. Erskine—Was he like a man that had been drinking?

A. Drinking moderately.

Q. Two bottles of Port, what do you say to that?

A. I cannot say.

Q. It is very difficult to judge by weights and scales?

A. I thought he was sober by his manner.

Mr. E R S K I N E.

Gentlemen of the Jury,

I rise to address you under circumstances so peculiar, that I consider myself entitled not only for the Defendant arraigned before you, but personally for myself, to the utmost indulgence of the Court. I came down this morning with no other notice of the duty cast upon me in this cause, nor any other direction for the premeditation necessary to its performance, than that which I have ever considered to be the safest and the best, namely, the Records of the Court, as they are entered here for trial, where for the ends of justice the charge must always appear with the most accurate precision, that the accused may know what crime he is called upon to answer, and his Counsel how he may defend him. Finding therefore upon the record which arraigns the Defendant, a simple, unqualified charge of seditious words, unconnected, and uncomplicated with any extrinsic events, I little imagined that the conduct of my client was to receive its colour and construction from the present state of France, or rather of all Europe, as affecting the condition of England; I little dreamed that the 6th day of November (which, reading the indictment, I had a right to consider like any other day in the calendar) was to turn out an epoch in this country, (for so it is styled in the argument,) and that instead of having to deal with idle, thoughtless words, uttered over wine, through the passage of a coffee-house, with whatever *at any time* might belong to them, I was to meet a charge, of which I had no notice, or conception, and to find the *loose dialogue*, which even upon the face of the record itself, exhibited nothing more than a casual sudden conversation, exalted to an accusation of the most premeditated, serious, and alarming nature, verging upon High Treason itself, by its connection with the most hostile purposes to the State, and assuming a shape still more interesting from its dangerous connection with certain mysterious conspiracies, which, in confederacy with French Republicans, threaten, it seems, the constitution of our once happy country.

Gentlemen, I confess myself much unprepared for a discussion of this intended nature, and a little disconcerted at being so; for though (as I have said) I had no notice from the record, that the politics of Europe were to be the subject of discourse, yet experience ought to have taught me to expect it; for what act of government has for a long time past been carried on by any other means; when has been the debate, or what has been the object of authority, in which the affairs of France have not taken the lead? the affairs of France have indeed become the common stalking horse for all state purposes. I know the honour of my learned friend too well to impute to him the introduction of them for any improper or dishonourable purpose; I am sure he connects them in his own mind with the subject, and thinks them legally before you—I am bound to think so, because the general tenor of his address to you has been manly and candid. But I shall appeal to his Lordship, that neither the actual condition of France, nor the supposed condition of this country are, or can be in any shape before you, and that upon the trial of this indictment, supported as it has been by the evidence you have heard, the words must be judged of as if spoken by any man or woman in the kingdom, at any time from the Norman conquest, to the moment I am addressing you.

I admit indeed, that the particular time in which words are spoken, or acts committed, *may* most essentially alter their quality and construction, and give to expressions, or conduct, which in another season might have been innocent, or at least indifferent, the highest and most enormous guilt: but for that very reason the supposed particularity of the present times as applicable to the matter before you, is absolutely shut out from your consideration, and shut out upon the plainest and most obvious principle of justice and law; because wherever time or occasion mixes with an act, affects its quality, and constitutes or enhances its criminality, it then becomes an essential part of the misdemeanor itself, and must consequently be charged as such upon the record.—*I plainly discover I have his Lordship's assent to this proposition.*—If therefore the crown had considered the Defendant in the serious light which it considers him today, it has wholly mistaken its course. If it had considered the government of France as actively engaged in the encouragement of disaffection to the monarchy of England, and that her newly-erected Republic was to be set up as the great type for imitation and example here; if it had considered that numbers, and even classes of our countrymen were ripe for disaffection, if not for rebellion, and that the Defendant as an emissary of France, and seeking the destruction of English government, had spoken the words with the premeditated design of destroying its functions. This situation of things might and ought to have been put

as fact upon the record, and like fact established by evidence, instead of resting as they do to-day upon assertion; by such a course the crime indeed would have become of the magnitude represented; but on the other hand, as the conviction of it could only have followed from the proof, the Defendant upon the evidence of to-day must have an hour ago been acquitted; since not a syllable has been proved of any emissaries from France to debauch our monarchical principles; nor an insinuation in evidence, that if there were any such, the Defendant was one of them; nor a syllable of proof, either directly or indirectly, that the condition of the country, when the words were uttered, differed from its ordinary condition of prosperity in peace. It is therefore a most compendious and ingenious mode of justice, that the facts which wholly constitute, or at all events lift up the dignity and danger of the offence, should not be charged upon record; because they could not be proved, but are to be taken for granted in the argument, to produce the same effect upon the trial, and in the punishment, as if they had been actually charged, and completely established.

If therefore, Gentlemen, the affairs of France, as they are supposed to affect this country, had been introduced without warrant from the charge or the evidence, I should have been wholly silent concerning them, but as they have been already mixed with the subject in a manner so eloquent and affecting, as too probably to have made a strong impression, it becomes my duty to endeavour at least to remove it.

The late revolutions in France have been represented to you as not only ruinous to their authors, and to the inhabitants of that country, but as likely to shake and disturb the principles of this and all other governments; that though the English public are generally well affected to its government, (ninety-nine out of one hundred, upon Mr. Attorney General's own statement,) yet that wicked and designing men have long been labouring to overturn it, and that nothing short of the wise and spirited exertions of Government (of which this prosecution is, it seems, one of the instances,) have hitherto averted, and can continue to avert the dangerous contagion which mis-rule and anarchy are spreading through the world; that bodies of Englishmen forgetting their duty to their own country and its government, congratulated the Convention of France upon the formation of their monstrous government, and that the conduct of the Defendant must be considered as part of a deep-laid system of disaffection, which threatened the established government of this kingdom.

Gentlemen, this state of things having no support from any evidence before you, and resting only upon opinion; I have an equal right to mine; having the same means of observation with other people of what passes

passes in the world, and as I have a very clear one upon the subject, I will give it you in a few words.

I am of opinion then, that there is not the smallest foundation for the alarm which has been so industriously propagated; in which I am so far from being singular, that I verily believe the authors of it are themselves privately of the same way of thinking; but it was convenient for certain persons, who had changed their principles, to find some plausible pretext for changing them; it was convenient for those who when out of power had endeavoured to lead the public mind to the necessity of reforming the corruptions of our own government, to find *any* reasons for their continuance and confirmation, when they operated as engines to support themselves in the exercise of powers, which were only odious when in other hands. For this honourable purpose the sober, reflecting, and temperate character of the English nation, was to be represented as fermenting into sedition, and insane contempt of the revered institutions of their ancestors: for this honourable purpose the wisest men, the most eminent for virtue, the most splendid in talents, and the most independent for rank and property in the country, were, for no other crime than the continuance in those sentiments which certain persons had originated and abandoned, to be given up to the licentious pens and tongues of hired defamation, to be stabbed in the dark by anonymous accusation, and to be held out to England and to the whole world, as abandoned together, under the auspices of cut-throats to overturn every thing sacred in religion, and venerable in the ancient government of our country. Certain it is, that the whole system of government, of which the business we are now engaged in, is no mean specimen, came upon the public with the suddenness of a clap of thunder, without one act to give it foundation, *from the very moment that notice was given of a motion in Parliament, to reform the representation of the people*: long, long before that time the Rights of Man and other books, though not complained of, had been written; equally long before it the addresses to the French government, which have created such a panic, had existed; but as there is a give and take in this world, they passed unguarded. Leave but the practical corruptions, and they are contented to wink at the speculations of theorists, and the compliments of public spirited civility; but the moment that the national attention was awakened to look to things in practice, and to seek to reform corruptions at home, from that moment, as at the ringing of a bell, the whole hive began to swarm, and every man in his turn has been stung. This, Gentlemen, is the real state of the case, and I am so far from pushing the observation beyond its bearing for the defence of a client, that I am ready to admit

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Mr.

Mr. Frost in his conduct has not been wholly invulnerable, and that in some measure he has brought this prosecution upon himself.

Gentlemen, Mr. Frost must forgive me, if I take the liberty to say, that with the best intentions in the world, he formerly pushed his observations and conduct respecting Government further than many would be disposed to follow him. I cannot disguise or conceal from you, that I find his name in this green book,* as associated with Mr. Pitt and the

Duke

* (From Mr. Pitt's Hand-Writing.)

Thatched House Tavern, May 18th, 1782.

At a numerous and respectable Meeting of Members of Parliament, friendly to a Constitutional Reformation, and of Members of several Committees of Counties and Cities,

The Duke of Richmond	Sir Charles Turner	Dr. John Jebb
Lord Surry	Mr. Taylor	Major Cartwright
Lord Mahon	Mr. Amherst	Mr. Hill
The Lord Mayor	Mr. Duncombe	Mr. Baynes
Hon. Wm. Pitt	Mr. James Martin	Mr. Shove
Sir Watkin Lewes	Mr. Alderman Townsend	Mr. Churchill
Rev. Mr. Wyvill	Mr. Alderman Creighton	Mr. Tooke
Mr. Falconer	Mr. Alderman Wilkes	Mr. Horne
Mr. Redman	Rev. Mr. Bromley	Mr. Frost
Mr. Withers	Mr. B. Hollis	Mr. Trevanian
Mr. Bodely	Mr. Disney Fitche	Dr. Brocklesby
Mr. Vardy	Mr. Edmunds	Rev. Dr. Rycroft
Mr. Sheridan	General Hale	Colonel Byron
Mr. Alderman Turner	Sir Cecil Wray	Major Parry
Mr. Trecottick	Mr. B. Hayes	Mr. Green
Mr. Vincent	Sir James Norcliffe	&c. &c. &c.

Resolved unanimously,

That the motion of the Honourable William Pitt on the 9th instant, for the appointment of a Committee of the House of Commons, to inquire into the State of the Representation of the People of Great Britain in Parliament, and to report the same to the House, and also what steps it might be proper in their opinion to take thereupon, having been defeated by a motion made for the order of the day, it is become indispensably necessary that application should be made to Parliament, by petitions from the collective body of the People in their respective districts, requesting a substantial Reformation of the Commons House of Parliament.

Resolved

Duke of Richmond, at the Thatched House Tavern, in St. James's Street; that I find him also the correspondent of the former, and that I discover in their publications on the structure and conduct of the House of Commons, expressions, which however merited, and in my opinion commendable, would now be considered not merely as intemperate and unguarded, but as highly criminal.†

Gentlemen,

Resolved unanimously,

That this Meeting, considering that a general application by the collective body to the Commons House of Parliament cannot be made before the close of the present Session, is of opinion, that the sense of the People should be taken at such times as may be convenient this summer, in order to lay their several petitions before Parliament early in the next Session, when their proposition for a Parliamentary Reformation, without which neither the Liberty of the Nation can be preserved, nor the permanence of a wise and virtuous administration can be secured, may receive that ample and mature discussion which so momentous a question demands.

Resolved unanimously,

That the thanks of this Meeting be given to the Honourable William Pitt for moving, John Sawbridge, Esq. for seconding, and the 141 other Members who supported, the Motion for a Committee to inquire into the State of Parliamentary Representation, and to suggest what in their opinion ought to be done thereupon; as well as to the Duke of Richmond, Lord John Cavendish, Mr. Secretary Fox, and every other Member of the present Ministry, or of either House of Parliament, who has in any way promoted the necessary Reform that was the object of the foregoing motion.

WM. PLOMER, Chairman.

And they resolved to have another Meeting at the same place, on Saturday, June 1.

† (C O P Y.)

Dear Sir,

I AM extremely sorry that I was not at home, when you and the other Gentlemen from the Westminster Committee did me the honour to call.

May I beg the favour of you to express, that I am truly happy to find that the motion of Tuesday last has the approbation of such zealous Friends to the Public, and to assure the Committee, that my exertions shall never be wanting in support of a measure, which I agree with them in thinking essentially necessary to the Independence of Parliament and the Liberty of the People.

I have the honour to be, with great respect and esteem,

Sir,

Lincoln's Inn,
Friday, May 10th.

Your most obedient and most humble Servant,

W. PITTS.

John Frost, Esq. Percy Street.

Gentlemen, the fashion of this world speedily passeth away, and we find these glorious restorers of equal representation, determined as Ministers, that so far from every man being an elector, the metropolis of the kingdom should have no election at all; but should submit to the power or the softer allurements of the Crown. Certain it is, that for a short season, Mr. Frost being engaged professionally as agent for the Government Candidate, did not (indeed he could not) oppose this inconsistency between the doctrine and practice of his friends, and in this interregnum of public spirit, he was in the opinion of government a perfect patriot, a faithful friend to the British constitution. As a member of the law he was therefore trusted with government business in matters of revenue, and was, in short, what all the friends of government of course are, the best and most approved; to save words, he was like all the rest of them, just what he should be. But the election being over, and with it, professional agency; and Mr. Frost, as he lawfully might, continuing to hold his former opinions which were still avowed and gloried in, though not acted on by his ancient friends, he unfortunately did not change them the other day, when they were thrown off by others; on the contrary, he rather seems to have taken fire with the prospect of reducing them to practice, and being, as I have shewn you, bred in a school which took the lead in boldness of remonstrance of all other reformers before or since, he fell, in the heat and levity of wine, into expressions which have no correspondence with his sober judgements, which would have been passed over or laughed at in you or me, but which coming from him was never to be forgiven by government. This is the genuine history of his offence, and for this he is to be the subject of prosecution, not the prosecution of my learned friend, not the prosecution of the Attorney General, not the prosecution of his Majesty; but the prosecution of Mr. Yatman, who wishes to shew you his great loyalty to the State and Constitution, which was in danger of falling, had it not been for the drugs that were given to it by this worthy apothecary.

Lincoln's Inn, May 12th, 1782.

Sir,

I HAVE received the favour of your note, and shall be proud to receive the honour intended me by the Gentlemen of the Middlesex Committee, at the time you mention.

I am, with great regard,

Sir,

Your most humble Servant,

W. PITT.

John Frost, Esq. Percy Street.

With

With regard to the new government of France, since the subject has been introduced, all I can say of it is, that the good or evil of it belongs to themselves, that they had a right, like every other people upon earth, to change their government; that the system destroyed was a system disgraceful to free and rational beings, and if they have neither substituted, nor shall hereafter substitute a better in its stead, they must eat the bitter fruits of their own errors and crimes. As to the horrors which now disfigure and desolate that fine country, all good men must undoubtedly agree in condemning and deplored them, but they may differ nevertheless in decyphering their causes; men to the full as wise as those who pretend to be wiser than Providence, and stronger than the order of things, may perhaps reflect that a great fabric of unwarrantable power and corruption could not fall to the ground without a mighty convulsion, that the agitation must ever be in proportion to the surface agitated, that the passions and errors inseparable from humanity must heighten and swell the confusion, and that perhaps the crimes and ambitions of other nations under the mask of self-defence and humanity, may have contributed not a little to aggravate them; may have tended to embitter the spirits and to multiply the evils which they condemn, to increase the misrule and anarchy which they seek to disemboil, and in the end to endanger the forms of government, which by carnage and bloodshed, instead of by peace, improvement, and wise administration they profess to protect from the contagion of revolution.

As to the part which bodies of men in England have taken, though it might in some instances be imprudent and irregular, yet I see nothing to condemn, nor any thing to justify the alarm, nor to support the declamation which I daily hear upon the subject. The congratulations of Englishmen were directed to the fall of corrupt and despotic power in France, and were animated by a wish of a milder and freer government, happier for that country and safer for this; they were besides addressed to France when she was at peace with England, and when no law was therefore broken by the expression of opinion or satisfaction. They were not congratulations of the murders which have since been committed, nor of the desolations which have since overspread so large a portion of the earth, nor were they traitorous to the government of this country, as we may safely take in trust, *since not one of them, even in the rage of prosecution have been brought before a criminal court.* For myself, I never joined in any of these addresses, but what I have delivered is all I have been able to discover or judge of, and government itself, as far as evidence extends, has not been more successful. I would therefore recommend it to government, to attend to the reflections of an eloquent writer, at present high in its confidence and esteem, who has admirably exposed the danger

and injustice of general accusations. " *This way of proscribing the citizens by denominations and general descriptions*, dignified by the name of reason of state, and security for constitutions and commonwealths, is nothing better at bottom than the miserable invention of an ungenerous ambition, which would fain hold the sacred trust of power, without any of the virtues or energies that give a title to it; a receipt of policy, made up of a detestable compound of malice, cowardice, and sloth. They would govern men against their will; but in that government would be discharged from the exercise of vigilance, providence, and fortitude; and therefore that they may sleep on their watch, consent to take some one division of the society into partnership of the tyranny over the rest. But let government, in whatever form it may be, comprehend the whole in its justice, and restrain the suspicious by its vigilance; let it keep watch and ward; let it discover by its sagacity, and punish by its firmness, all delinquency against its power, whenever it exists in the overt acts, and then it will be as safe as God and Nature intended it should be. Crimes are the acts of individuals, and not of denominations; and therefore arbitrarily to class men under general descriptions, in order to proscribe and punish them in the lump for a presumed delinquency, of which perhaps but a part, perhaps none at all, are guilty, is indeed a compendious method, and saves a world of trouble about proof; but such a method, instead of being law, is an act of unnatural rebellion against the legal dominion of reason and justice; and a vice, in any constitution that entertains it, which at one time or other will certainly bring on its ruin."*

Gentlemen, let us now address ourselves to the cause disengaged by foreign considerations; let us examine what the charge upon the record is, (for there alone we are to look at it,) and see how it is supported by the proofs. For, unless the whole indictment, or some one count of it, be in form and substance, supported by the evidence, the defendant must be acquitted, however in other respects you are dissatisfied with his imprudence and indiscretion. The indictment charges, " That the Defendant being a person of an impious, depraved, seditious disposition and maliciously intending to disturb the peace of the kingdom; to bring our most serene sovereign into hatred and contempt, with all the subjects of the realm, and to excite them to discontent against the government. *He the said Defendant his aforesaid wicked contrivances and intentions to complete, perfect, and render effectual, on the 6th day of November,*" spoke the words imputed to him by the Crown. This is the indictment, and it is drawn with a precision which marks the true principle of English criminal law. It does not merely charge the speaking of the words, leaving the wicked intention to be supplied and collected by necessary

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* Edmund Burke.

and unavoidable inference, because such inference may or may not follow from the words themselves, according to circumstances, which the evidence alone can disclose; it charges therefore the wicked intention *as a fact*, and as constituting the very essence of the crime, stating as it must state, to apprise the Defendant of the crime alledged against him, the overt act, by which such malicious purpose was displayed, and by which he sought to render it effectual. *No man can be criminal without a criminal intention, actus non facit reum nisi mens sit rea.* This sacred maxim stands at the top of the criminal page throughout all the volumes of our law, and from the highest to the lowest order of crimes, it is still the intention, which is arraigned and punished; God alone can look into the heart, and man, could he look into it, has no jurisdiction over it, until society is disturbed by its actions; but the criminal mind being the source of all criminality, the law seeks only to punish actions which it can trace to a premeditately evil disposition; it pities our errors and mistakes, makes allowances for our passions, and scourges only our crimes.

Gentlemen, my learned friend the Attorney General, in the conclusion of his address to you, did more than ratify these propositions; for with a liberality and candour very honourable to himself, and highly advantageous to the public, which he represents, he said to you, that if the expressions charged upon the Defendant, should turn out in your opinion to be unadvised and unguarded, arising on the sudden, and unconnected with previous bad intention, he should not even insist upon the strictness of the law whatever it might be, nor ask a verdict, but such as between man and man, acting upon moral and candid feelings, ought to be asked and expected. These were the suggestions of his own just and manly disposition; and he confirmed them by the authority of Mr. Justice Forster, whose works are so deservedly celebrated; but judging of my unfortunate client, not from his own charity, but from the false information of others, he puts a construction upon an expression of this great author, which destroys much of the intended effect of his doctrine; a doctrine which I will myself read again to you, and by the right interpretation of which I desire the Defendant may stand or fall; in the passage read to you, Forster says, " As to mere words, they differ widely from writings in point of **REAL MALIGNITY AND PROPER EVIDENCE**; they are often the effect of mere heat of blood, which in some natures otherwise well disposed, carrieth the man beyond the bounds of prudence: they are always liable to great misconstruction, from the ignorance or infatuation of the hearers, and too often from a motive truly criminal." Forster afterwards goes on to contrast such loose words "*not relative to any act or design,*" for so he expresses

expresses himself, with "words of advice and persuasion in contemplation of some traitorous purpose actually on foot or intended, and in prosecution of it."—Comparing this rule of judgement with the evidence given, one would have expected a consent to the most favourable judgement, one would have almost considered the quotation as a tacit consent to an acquittal: but Mr. Attorney General, still looking through the false medium of other men's prejudices, lays hold of the words, "*otherwise well disposed,*" and engrafts upon them this most extraordinary requisition. Shew me, he says, that Mr. Frost is otherwise well disposed. Let him bring himself within the meaning of Forster, and then I consent that he shall have the fullest benefit of his indulgent principle of judgement. Good God, Gentlemen, are we in an English Court of Justice? are we sitting in judgement before the Chief Justice of England, with the assistance of a Jury of Englishmen? and am I in such a presence to be called upon to prove the good disposition of my client, before I can be entitled to the protection of those rules of evidence, which apply equally to the just and to the unjust, and by which an evil disposition must be proved before it shall be suspected? I came here to resist and to deny the existence of legitimate and credible proof of disloyalty and disaffection; and am I to be called upon to prove that my client has *not* been, nor is disloyal or disaffected? Are we to be deaf'ned with panegyrics upon the English constitution, and yet to be deprived of its first and distinguishing feature, that innocence is to be presumed until guilt be established? and of what avail is that sacred maxim, if upon the bare assertion and imputation of guilt, a man may be deprived of a rule of evidence, the suggestion of wisdom and humanity, as if the rule applied only to those who need no protection, and who were never accused? If Mr. Frost, by any previous overt acts, by which alone any disposition, good or evil, can be proved, had shewn a disposition leading to the offence in question, it was evidence for the crown. Mr. Wood, whose learning is unquestionable, undoubtedly thought so, when with the view of crimination, he asked, where Mr. Frost had been before the time in question, for he is much too correct to have put an irregular and illegal question in a criminal case; I must therefore suppose his right to ask it, appeared to him quite clear and established, and I have no doubt that it was so. Why then did he not go on and follow it up, by asking, what he had done in France? what declarations he had made *there*, or what part he proposed to act *here*, upon his return? The charge upon the record is, that the words were uttered with malice and premeditation; and Mr. Attorney General properly disclaims a conviction upon any other footing. Surely then it was open to the crown, upon every principle of common sense, to have proved the previous malice by all previous discourses and pre-

vious conduct, connected with the accusation; and yet, after having wholly and absolutely failed in this most important part of the proof, we are gravely told, that the crown having failed in the *affirmative*, we must set about establishing the *negative*, for that otherwise we are not within the pale or protection of the very first and paramount principles of the law and government of the country.

Having disposed of this stumbling block in the way of sound and indulgent judgement, we may now venture to examine *THIS mighty offence, as it is proved by the witness for the Crown, supposing the facts neither to have been misstated from mis-apprehension, or wilfully exaggerated.*

Mr. Frost, the defendant, a gentleman, who upon the evidence stands wholly unimpeached of any design against the public peace, or any indisposition to the constitution of the kingdom, appears to have dined at the tavern above the Percy coffee-house, not even with a company met upon any political occasion, good or evil, but as has been admitted in the opening, with a society for the encouragement of Agriculture, consisting of most reputable and inoffensive persons, neither talking or thinking about government, or its concerns; so much for the preface to this dangerous conspiracy. The company did not retire till the bottle had made many merry circles; and it appears upon the evidence for the crown, that Mr. Frost, *to say the least*, had drank very freely; but was it then that with the evil intention imputed to him, he went into this coffee-house to circulate his opinions, and to give effect to designs he had pre-meditated & *he could not possibly go home without passing through it*; for it is proved that there was no other passage into the street from the room where he had dined: but having got there by accident, did he even then stop by design and collect an audience to scatter sedition & so far from it, that Mr. Yatman, the very witness against him admits, that he interrupted him as he passed in silence towards the street, and fastened the subject of France upon him, and every word which passed, (*for the whole is charged upon the very record as a dialogue with this witness*) in answer to his entrapping questions, introduced with the familiarity of a very old acquaintance, and in a sort of banter too, which provoking answers in the same spirit, gave a turn to the conversation, which renders it ridiculous as well as wicked, to convert it into a serious plan of mischief; “Well,” says Mr. Yatman, “well Mr. Equality, so you have been in France, when did you arrive? I suppose you are for Equality, and no Kings?” “O yes,” says Mr. Frost, “certainly I am for Equality, I am for no Kings.” Now beyond all question, when this answer was made, whether in jest or in earnest, whether when drunk or sober, it neither had, nor could have the remotest relation to England, or its government: France had just abolished its new constitution of monarchy,

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and set up a republic. She was at that moment divided and in civil confusion on the subject; the question therefore, and the answer as they applied to France, were sensible and relevant, but to England or to English affairs they had not, (except in the *en snaring* sequel,) the remotest application. Had Yatman therefore ended here, the conversation would have ended, and Mr. Frost would have been the next moment in the street; but still the question is forced upon him, and he is asked, "What 'no Kings in England?'" although his first answer had no connection with England; the question, therefore, was self evidently, a snare, to which he answered, "No Kings in England," which seemed to be all that was wanted, for in a moment every thing was confusion and uproar; Mr. Frost, who had neither delivered nor meant to deliver any serious opinion concerning government, and finding himself injuriously set upon, wished, as was most natural, to explain himself, by stating to those around him what I have been just stating to you; but all in vain, they were in pursuit of the immortal fame of the very business we are engaged in at this moment, and they were resolved to hold their advantage—his voice was immediately drowned by the clamours of insult and brutality, he was baited on all sides like a bull, and left the coffee-house without the possibility of being heard either in explanation or defence. An indictment was immediately preferred against him, and from that moment the public ear has been grossly and wickedly abused upon the subject; his character shamefully calumniated, and *bis cause prejudged before the day of trial.*

Gentlemen, it is impossible for me to form any other judgement of the impression which such a proceeding altogether is likely to make upon your minds, but from that which it makes upon my own. In the first place, is society to be protected by the breach of those confidences, and in the destruction of that security and tranquillity which constitutes its very essence every where, but which, till of late, most emphatically characterised the life of an Englishman? Is government to derive dignity and safety by means which render it impossible for any man who has the least spark of honour to step forward to serve it? Is the time come when obedience to the law and correctness of conduct are not a sufficient protection to the subject, but that he must measure his steps, select his expressions, and adjust his very looks in the most common and private intercourses of life. Must an English gentleman in future fill his wine by a measure, lest in the openness of his soul, and whilst believing his neighbours are joining with him in that happy relaxation and freedom of thought, which is the prime blessing of life, he should find his character blasted, and his person in a prison? Does any man put such constraint upon himself in every moment of his most private life, that he would be contented

contented to have his loosest and lightest words recorded, and set in array against him in a Court of Justice? Thank God, the world lives very differently, or it would not be worth living in. There are moments when jarring opinions may be given without inconsistency, when truth herself may be sported with without the breach of veracity, and where well-imagined nonsense is not only superior to, but is the very index to wit and wisdom. I might safely assert, taking too, for the standard of my assertion, the most honourably correct and enlightened societies in the kingdom, that if malignant spies were properly posted, scarcely a dinner would end without a duel and an indictment.

When I came down this morning, and found, contrary to my expectation, that we were to be stuffed into this miserable hole in the wall, to consume our constitutions. Suppose I had muttered along through the gloomy passages—What, is this cursed trial of Hastings going on again? Are we to have no respite? Are we to die of the asthma in this damned corner? I wish to God that the roof would come down and abate the impeachment, Lords and Commons, and all together. *Such a wish proceeding from the mind,* would be desperate wickedness, and the serious expression of it a high and criminal contempt of Parliament. Perhaps the bare utterance of such words, even without meaning, are irreverend and foolish; but what then, still if such expressions had been gravely imputed to me as the result of a malignant mind, seeking the destruction of the Lords and Commons of England, how would they have been treated in the House of Commons, on a motion for my expulsion? How! The witness would have been laughed out of the House before he had half-finished his evidence, and would have been voted to have been too great a blockhead to deserve a worse character. Many things are indeed wrong and reprehensible, that neither do nor can become the objects of criminal justice, because the happiness and security of social life, which is the very end and object of all law and justice, forbid the communication of them; because the spirit of a gentleman, which is the most refined morality, either shuts men's ears against what should not be heard or closes their lips with the sacred seal of honour.

This tacit but well-understood and delightful compact of social life is perfectly consistent with its safety; the security of free governments and the unsuspecting confidence of every man who lives under them, are not only compatible but inseparable. It is easy to distinguish where the public duty calls for the violation of the private one; criminal intention, but not indecent levities; not even grave opinions unconnected with conduct are to be exposed to the magistrate; and when men, which happens but seldom, without the honour or the sense to make the due distinctions, force complaints upon governments, which they can neither refuse nor

approve of, it becomes the office of juries, as it is your's to-day, to draw the true line in their judgements, measuring men's conduct by the safe standards of human life and experience.

Gentlemen, the misery and disgrace of society, under the lash of informers, running before the law and hunting men through the privacies of domestic life, is described by a celebrated speaker with such force and beauty of eloquence, that I will close my observations on this part of the subject, by repeating what cannot, I am persuaded, be uttered amongst Englishmen without sinking deep into their hearts. " A mercenary informer knows no distinction. Under such a system, the obnoxious people are slaves, not only to the government, but they live at the mercy of every individual; they are at once the slaves of the whole community and of every part of it; and the worst and most unmerciful men are those on whose goodness they most depend.

" In this situation men not only shrink from the frowns of a stern magistrate, but are obliged to fly from their very species. The seeds of destruction are sown in civil intercourse, and in social habitudes. The blood of wholesome kindred is infected. Their tables and beds are surrounded with snares. All the means given by Providence to make life safe and comfortable are perverted into instruments of terror and torment. This species of universal subserviency that makes the very servant who waits behind your chair, the arbiter of your life and fortune, has such a tendency to degrade and abase mankind, and to deprive them of that assured and liberal state of mind which alone can make us what we ought to be, that I vow to God, I would sooner bring myself to put a man to immediate death for opinions I disliked, and so to get rid of the man and his opinions at once, than to fret him with a feverish being, tainted with the jail distemper of a contagious servitude, to keep him above ground, an animated mass of putrefaction, corrupted himself, and corrupting all about him."*

But if these sentiments apply so justly to the reprobation of persecution for opinions, even for opinions which the laws, however absurdly inhibit, for opinions though certainly and maturely entertained, though publicly professed, and though followed up by corresponding conduct, how irresistibly do they devote to contempt and execration all eyes dropping attacks upon loose conversations, casual or convivial, more especially when proceeding from persons conforming to all the religious and civil institutions of the state, unsupported by general and avowed profession, and not merely unconnected with conduct, but scarcely attended with recollection or consciousness. Such a vexatious system of inquisition, the disturber of household peace, began and ended with the Star-chamber; the venerable law of England never knew it; her noble, dignified,

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* Edmund Burke.

and humane policy soars above the little irregularities of our lives, and disdains to enter our closets without a warrant founded upon complaint. Constructed by man to regulate human infirmities, and not by God to guard the purity of angels, it leaves to us our thoughts, our opinions, and our conversations, and punishes only overt acts of contempt and disobedience to her authority.

Gentlemen, this is not the specious phrase of an advocate for his client ; it is not even my exposition of the spirit of our constitution ; but it is the phrase and letter of the law itself. In the most critical conjunctures of our history, when government was legislating for its own existence and continuance, it never overstepped this wise moderation. To give stability to establishments it occasionally bridled opinions concerning them, but its punishments, though sanguinary, *laid no snares for thoughtless life*, and took no man by surprise.

Of this the act of Queen Anne, which made it high treason to deny the right of Parliament to alter the succession, is a striking example ; the hereditary descent of the Crown had been recently broken at the Revolution by a minority of the nation, with the aid of foreign force, and a new inheritance had been created by the authority of the new establishment, which had but just established itself. Queen Anne's title and the peaceable settlement of the kingdom under it, depended wholly upon the constitutional power of parliament to make this change ; the superstitions of the world, and reverence for antiquity, which deserves a better name, were against this power and the use which had been made of it ; the dethroned King of England was living in hostile state at our very doors, supported by a powerful monarch, at the head of a rival nation, and our own kingdom itself full of factious plots and conspiracies, which soon after shewed themselves in open rebellion.

If ever, therefore, there was a season when a narrow jealousy would have been excuseable in a government ; if ever there was a time when the sacrifice of some private liberty to common security would have been prudent in a people, it was at such a conjuncture ; yet mark the reserve of the Crown and the prudence of our ancestors in the wording of the statute. Although the denial of the right of Parliament to alter the succession was tantamount to the denial of all legitimate authority in the kingdom, and might be considered as a sort of abjuration to the laws, yet the statute looked at the nature of man and to the private security of individuals in society, while it sought to support the public society itself ; it did not therefore dog men into taverns and coffee-houses, nor lurk for them at corners, nor watch for them in their domestic enjoyments. “ The act provides that every person who should maliciously, advisedly, “ and directly, by writing or printing, affirm, that the Queen was not

" the rightful Queen of these realms, or that the Pretender had any right or title to the Crown, or that any other person had any right or title, otherwise than according to the acts passed since the Revolution for settling the succession, or that the legislature hath not sufficient authority to make laws for limiting the succession, should be guilty of high treason, and suffer as a traitor ; and then enacts, that if any person shall *maliciously*, and *directly*, by *preaching*, *teaching*, or *advised speaking*, declare and maintain the same, he shall incur the penalties of " *a præmunire.*"

I will make a short observation or two, says Forster, on the act.—
" 1st. The positions condemned by them had as direct a tendency to involve these nations in the miseries of an intestine war, to incite her Majesty's subjects to withdraw their allegiance from her, and to deprive her of her crown and royal dignity, as any general doctrine, any declaration *not relative to actions or designs*, could possibly have ; and yet in the case of bare words, positions of this dangerous tendency, though maintained *maliciously, advisedly, and directly*, and even in the solemnities of *preaching and teaching*, are not considered as overt-acts of treason.

" 2dly. In no case can a man be *argued* into the penalties of the act by inferences and conclusions drawn from what he hath affirmed ; the criminal position must be *directly* maintained, to bring him within the compass of the act.

" 3dly. Nor will every rash, hasty, or unguarded expression, owing perhaps to natural warmth, or thrown out in the heat of disputation, render any person criminal within the act ; the criminal doctrine must be maintained *maliciously and advisedly.*"

He afterwards adds, " Seditious writings are permanent things, and if published, they scatter the poison far and wide. They are acts of deliverance, capable of satisfactory proof, and not ordinarily liable to misconstruction ; at least they are submitted to the judgement of the Court, naked and undisguised, as they came out of the author's hands. Words are transient and fleeting as the wind, the poison they scatter is, at the worst, confined to the narrow circle of a few hearers ; they are frequently the effect of a sudden transport, easily misunderstood, and often mis-reported."

Gentlemen, These distinctions, like all the dictates of sound policy, are as obvious to reason, as salutary in practice. What a man prints or writes, which is criminal and pernicious, and disseminates when printed or written, is conclusive of his purpose ; he manifestly must have deliberated on what he wrote, and the distribution is also an act of deliberation ; intention in such cases is not therefore matter of legal proof but

of reasonable inference, unless the accused, by proof on his side can rebut what reason must otherwise infer; for he who writes to others, undoubtedly seeks to bring over other minds to assimilate with his own; so he who advisedly speaks to others upon momentous subjects may be presumed to have the same intention, but yet so frail is memory, so imperfect our natures, so dangerous would it be to place words, which, to use the words of Forster, are transient and fleeting, upon a footing with deliberate conduct, that the criminating letter of the law itself interposes the cheque and excludes the danger of a rash judgement, by curiously selecting from the whole circle of language an expression which cannot be mistaken; for nothing said upon the sudden without the evidence of a context, and sequel in thought or conduct, can in common sense deserve the title of advised speaking. Try the very matter before you with the principle of the statute of Queen Anne, and examine it with the caution of Forster.

Suppose then, that instead of the words imputed by this record, the Defendant coming half drunk through this coffee-house, had, in his conversation with Yatman, denied the right of Parliament to alter the succession. Could he have been adjudged to suffer death for high treason under the statute of Queen Anne? reason and humanity equally revolt at the position, and yet the decision asked from you is precisely that decision; for if you could not have found advised speaking to bring it within that statute of treason, so neither can you find it as the necessary evidence of the intention charged upon the present indictment, which intention is that which constitutes the misdemeanor.

If any thing were wanting to confirm these principles of the law and the commentaries of its ablest judges, as applicable to words they are in another way emphatically furnished by the instance before us. For in the zeal of these coffee-house politicians to preserve the Defendant's expressions, they were instantly to be put down in writing, and signed by the persons present; yet the paper read by Colonel Bullock, and written, as he tells you, at the very moment with that intention, contains hardly a single word from the beginning to the end of it, either in meaning or expression, the same as has been related by the witnesses; it sinks in the first place the questions put to the Defendant, and the whole dialogue, which is the best clue to the business and records, "*that Mr. Frost came into the coffee-house, and declared*" an expression which he never used, and which wears the colour of deliberation, "*that he wished to see Equality prevail in this country.*" Another expression, which it is now agreed on all hands, he never uttered, and which conveys a very different idea to my mind, at least from saying in answer to an impertinent or a taunting question, "*Oh yes, I am for Equality.*" I impute nothing at all to

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Colonel Bullock, who did not appear to me to give his evidence unfairly, who read his paper as he wrote ; but this is the very strength of my observation : for suppose the case had not come for months to trial, the other witnesses (and honestly too) might have let their memories lean on the written evidence, and thus you would have been trying, and perhaps condemning the Defendant for speaking words, stript too of their explanatory concomitants, which it stands *confessed at this moment were never spoken at all.*

Gentlemen, The disposition which has of late prevailed to depart from the wise moderation of our own laws and constitution, under the pretext, or from the zeal of preserving them, and which has been the parent of so many prosecutions, is an awful monument of human weakness. These associators to prosecute, who keep watch of late upon our words and upon our looks, are associated, it seems, to preserve our excellent constitution from the contagion of French government, where an arbitrary and tyrannous democracy, under the colour of popular freedom, destroys all the securities and blessings of life ; but how does it destroy them ? how, but by the very means that these new partners of executive power would themselves employ, if we would let them. By inflicting from a mistaken and barbarous state necessity, the severest punishments for offences never defined by the law ; by inflicting them upon suspicion instead of evidence, and in the blind, furious, and indiscriminate zeal of persecution, instead of by the administration of a sober and impartial jurisprudence. Substracting the horrors of invading armies which France cannot help, what other mischief has she inflicted upon herself ? from what has she suffered but from this undisciplined and cruel spirit of accusation and rash judgment ? A spirit that will look at nothing dispassionately, and which, though proceeding from a zeal and enthusiasm for the most part honest and sincere, is nevertheless as pernicious as the wicked fury of daemons, when it is loosened from the sober dominion of slow and deliberate justice. What is it that has lately united all hearts and voices in lamentation ? what but these judicial executions, which we have a right to stile murders, when we see the axe falling, and the prison closing upon the genuine expressions of the inoffensive heart ; sometimes for private letters to friends, unconnected with conduct or intention ; sometimes for momentary exclamations in favour of royalty, or some other denomination of government different from that which is established.

These are the miseries of France, the unhappy attendants upon revolution ; and united as we all are in deplored them, upon what principle of common sense shall we vex and terrify the subjects of our country in

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the very bosom of peace, and disgust them with the government, which we wish them to cherish, by unusual irritating and degrading prosecutions.

Indeed, I am very sorry to say that we *bear* of late too much of the excellence of the British government, and *feel* but too little of its benefits. They, too, who pronounce its panegyrics, are those who alone prevent the entire public from acceding to it; the eulogium comes from a suspected quarter, when it is pronounced by persons enjoying every honour from the Crown, and treating the people upon all occasions with suspicion and contempt. The three estates of the kingdom are co-ordinate, all alike representing the dignity, and jointly executing the authority of the nation; yet all our loyalty seems to be wasted upon one of them. How happens it else, that we are so exquisitely sensible, so tremblingly alive to every attack upon the CROWN, OR THE NOBLES that surround it, yet so completely careless of what regards THE ONCE RESPECTED AND AWFUL COMMONS OF ENGLAND.

If Mr. Frost had gone into every coffee-house, from Charing-cross to the Exchange, lamenting the dangers of popular government, and reprobating the peevishness of opposition in Parliament, and wishing in the most advised terms, that we could look up to the throne and its excellent Ministers alone, for quiet and comfortable government, do you think that we should have had an indictment? I ask pardon for the supposition; I can discover that you are laughing at me for its absurdity. Indeed, I might ask you whether it is not the notorious language of the highest men, in and out of Parliament, to justify the alienation of the popular part of the government from the spirit and principle of its trust and office, and to prognosticate the very ruin and downfall of England, from a free and uncorrupted representation of the great body of the people. I solemnly declare to you, that I think the whole of this system leads inevitably to the dangers we seek to avert; it divides the higher and the lower classes of the nation into adverse parties, instead of uniting and compounding them into one harmonious whole; and it embitters the people against authority, which, when they are made to feel and know is but their own security, they must from the very nature of man unite to support and cherish. I do not believe that there are any set of men to be named in England; I might say, that I do not know an individual who seriously wishes to touch the Crown, or any branch of our excellent constitution; and when we hear peevish and disrespectful expressions concerning any of its functions, depend upon it, it proceeds from some practical variance between its theory and its practice. These variances are the fatal springs of disorder and disgust; they lost America, and in

that

That unfortunate separation laid the foundation of all that we have to fear ; yet, instead of treading back our steps, we seek recovery in the system which brought us into peril. Let government in England always take care to make its administration correspond with the true spirit of our genuine constitution, and nothing will ever endanger it. Let it seek to maintain its corruptions by severity and coercion, and neither laws nor arms will support it ; these are my sentiments, and I advise you, however unpopular they may be at this moment, to consider them, before you repel them.

If the Defendant, amongst others, has judged too lightly of the advantages of our government, reform his errors by a beneficial experience of them ; above all, let him feel its excellence to-day in its beneficence ; let him compare in his trial the condition of an English subject with that of a citizen of France, which he is supposed in theory to prefer. These are the true criterions by which, in the long run, individuals and nations will be affectionate to governments, or revolt against them ; for men are neither to be talked nor written into the belief of happiness and security, when they are not practically felt, nor talked or written out of them, when they are in the full enjoyment of those blessings : but if you condemn him upon this sort of evidence, depend upon it, he must have his adherents, and as far as that goes, I must be one of them.

Gentlemen, I will detain you no longer, being satisfied to leave you as conscientious men, to judge the Defendant as you yourselves would be judged ; and if there be any amongst you, who can say to the rest, that he has no weak or inconsiderate moments, but that all *his* words and actions, even in the most thoughtless passages of his life, are fit for the inspection of God and man, he will be the fittest person to take the lead in a judgement of guilty, and the properest Foreman to deliver it with good faith and firmness to the Court.

I know the privilege that belongs to the Attorney General to reply to all that has been said ; but perhaps, as I have called no witnesses, he may think it a privilege to be waved. It is, however, pleasant to recollect, that if it should be exercised, and even with his superior talents, his honour and candour will guard it from abuse.

R E P L Y.

MR. ATTORNEY GENERAL.

Gentlemen of the Jury,

THE experience of some years has taught me, that in the useful administration of justice, as it is administered by the juries in this country to that useful administration of justice, little more is necessary than to lay before them correctly the facts upon which they are to form their judgment, with such observations as naturally arise out of those facts.

Gentlemen, feeling that very strongly at present, I am certainly bound in some measure to account to you, why I feel it my duty in this stage of this proceeding to avail myself of that liberty which my learned friend has stated to belong to me in addressing you again.

Gentlemen, my learned friend has thought proper to state this prosecution as the prosecution of informers, of men whom he cannot call mercenary informers, but certainly whom he has been anxious to represent as officious informers, as that prosecution which it was my duty, independently of any considerations that I might feel myself upon the subject to bring before you, that it was that which I could not approve of, but that I was bound to persevere in till I received your verdict.

Gentlemen, with respect to bringing the cause before the Court, my learned friend has not confined his observations to that point. He has stated also, and every thing that falls from him, and more especially in a case that concerns the Crown and an individual, deserves and must have an answer from me. He has given you a comment upon words, which I likewise offered you some humble observations upon; I mean the words, otherwise well-disposed. I remarked, that where words in their natural import did import a seditious mind, it would be competent to a Defendant to shew upon a general principle, that whatever might be the words uttered, the circumstances attending the expression of them might be stated to the jury, in order to give a different sense to them from the primary import.

Gentlemen, I hold it to be my duty, standing here responsible to the public for the acts that I do—deeply impressed with a consciousness that I am so responsible, to state to you, that I must be extremely guilty of a breach of my duty, if I should now call upon you for a verdict, or if I should now take your opinion; because there is not a single tittle of evidence before you which was not before me when the indictment was laid. I protest against that doctrine, that the Attorney General of England is

bound to prosecute because some other set of men chuse to recommend it to him to prosecute, he disapproving of that prosecution. I know he has it in his power to choose whether he will or not, and he will act according to his sense of duty. Do not understand me to be using a language so impertinent, as to say, that the opinions of sober-minded persons in any station in life, as to the necessity that calls for a prosecution, ought not deeply to affect his judgement. But, I say, it is his duty to regulate his judgement by a conscientious pursuance of that which is recommended to him to do. And if any thing is recommended to him, which is thought by other persons to be for the good of the country, but which he thinks is not for the good of the country, no man ought to be in the office who would hesitate to say, my conscience must direct me, your judgement shall not direct me. And I know I can do this—I can retire into a situation in which I shall enjoy, what, under the blessings of that constitution thus reviled, is perhaps the best proof of its being a valuable constitution; I mean the fair fruits of an humble industry, anxiously and conscientiously exercised in the fair and honourable pursuits of life. I state, therefore, to my learned friend, that I cannot accept that compliment which he paid me, when he supposed it was not my act to bring this prosecution before you; because it was not what I myself could approve. Certainly, this prosecution was not instituted by me—but it was instituted by a person, whose conduct in the humane exercise of his duty is well known; and I speak in the presence of many who have been long and often witnesses to it, and when it devolved upon me to examine the merits of this prosecution, it was my bounden duty to examine, and it was my bounden duty to see if this is a breach of the sweet confidences of private life. If this is a story brought from behind this gentleman's chair by his servants, I can hardly figure to myself the case in which the public necessity and expediency of a prosecution should be so strong as to break in upon the relations of private life. But, good God! is this prosecution to be so represented—when a man goes into a coffee-house, who is from his profession, certainly not ignorant of the respect which the laws of his country require from him, as much as from any other man; and when he, in that public coffee-house (provided it was an advised speaking,) uses a language, which I admit it is clear upon the evidence given you to-day, provoked the indignation, (if you please so to call it,) of all who heard it. When persons, one, two, three, or more, come to ask him what he meant by it, when he gives them the explanation, and when he makes the offensive words still more offensive by the explanation that he repeatedly gives—will any man tell me, that if he goes into a public coffee-house, whether he comes into it from up stairs, or whether he goes into it from the street, that he is entitled to the

protection that belongs to the confidences of private life, or that it is a breach of the duties that result out of the confidences of private life?

Gentlemen, I call upon you seriously to consider the case, to act with candour, to act with indulgence to him, if you please, but at the same time to act with firmness as between him and the country. My learned friend has tried me in some measure to-day; now I avow it again—when respectable persons will state to me that such circumstances did pass, I will not take upon myself to say, that it is consistent with my duty to the King, or that it is consistent with my duty to the country, for whose benefit it is that he is King, that I should hear that such things have passed unnoticed. And when it is stated by such men as these are, unimpeached, feeling something, though their political theories are not the same as those of this Defendant, surely they may be allowed to feel and to express at least with zeal their indignation; if not to assert with industry their right to what they enjoyed through the blessing of Providence, and the constitution under which they lived. It was a case which excited the honest zeal and the fair and reasonable indignation of a great number of gentlemen; all respectable men, and competent to sit in that jury box, as between this or any other individual and the justice of the country. But, Gentlemen, according to my learned friend, I was to do one of these things. I was to say to Mr. Frost, which I certainly should have been glad to have said to him, or any man who stands in the situation of a Defendant, if I could do it with propriety, What is this story, Mr. Frost? Can I ask a defendant, whom I am to prosecute upon the prima facie evidence laid before me, what he is to say for himself in that stage of the business; but it was open to Mr. Frost in every stage of the business to have explained his conduct. He does not come upon this record to say, as many persons have said, I admit I spoke the words, I will not give you the trouble to prove the words? I spoke them in a degree of heat. I am (what he has never yet said, for he only seemed to retract,) I am sorry for the words I have used.

Gentlemen, my learned friend says, I should have said nothing to you upon the subject of France, and he particularly alludes to a question put by my learned friend, who will do me the justice to say, that I had no communication with him upon any such question. But I will explain myself upon that, as I think I ought to do upon every thing which occurs in a cause.

Gentlemen, if words of this sort spoken in France are a crime, I know from his Lordship's authority, as well as the authority of every principle of settled law, that I cannot give them in evidence; and if acts done in France amount to a crime against the law of this country, I know also, I ought not to give in evidence upon an indictment, such as this is any

evidence with respect to the acts so done. They ought to be the subject of a separate prosecution : and if my opinion had risen higher upon that subject than it does, I would not in the prosecution of this case have even risked such a question as that, whether certain acts can be done and declarations made in another country by a subject of this country, without his being amenable to the laws of this country ? It is a question that ought to be tried, if it is to be tried at all, in a more solemn form than taken as a mere collateral point in evidence. But was not I entitled to speak about France ? Did not this gentleman state, that things were going on well in France ; that he had come from France ; that it was his intention to go again to France, and that according to that intention, he did go to France ? Is not this evidence, that he knew what he was saying ; that he was speaking that which his future acts confirmed ? Then how does it appear, that he was drunk, or at least so much so, that he could not speak about any thing ; that he could not correctly speak his opinion ? It is clear, that he stated a fact with respect to what he was to do, that the future act of his life corresponded with, and yet my learned friend says, he did not speak advisedly at all.

Gentlemen, another observation that fell from my learned friend was, with respect to what I have stated as to the words otherwise well disposed. Gentlemen, give me leave in the first place, to call your attention as far as my Lord may think your attention ought to be called to it, to what I take to be a clear distinction in the law of England. Gentlemen, if words of their own efficacy and import manifest a seditious intention, the uttering those words is a misdemeanor. I do not desire you to try this question in that manner, because, I again repeat what I said towards the conclusion of what I before addressed to you, that if you should be of opinion, that Mr. Frost did not advisedly and knowingly, and with an intention to work the mischief this record imputes to him, I do not desire his conviction ; but I will say this, that it is a very clear distinction in law, with respect to words as they amount to high treason. What did the legislature say in those just and beautiful passages that were read to you by Mr. Erskine, from Mr. Justice Forster's reports ? that the penalties in high treason are so exceedingly great, that although treasonable words were spoken, yet if they were not spoken with such intention, would not, as in the case of high treason, expose the subject to those pains and penalties ; did they mean to say, they should be no offence at all ; if the conscience of the Jury should be satisfied that they were used in a way to make them criminal ? by no means : but if you are of opinion that these words were advisedly spoken, if the words themselves import that seditious intent which this record ascribes to them, I say it falls directly within the principle of Mr. Justice Forster, namely, that it would

would be competent to the Defendant to give evidence of his general demeanor as a good subject of the country, to shew that he had not that meaning, which is the *prima facie* sense of the words ; if that principle be just, I say that Mr. Frost has not found in the company below stairs, nor has he found upon the face of the earth a single person to state to you, that from his general demeanor when he uttered these words, he must not have had the fair use of that judgement and disposition, which conducts him through general life ; I say no more about it ; I am sure it would have been competent to him, to have produced such witnesses. Gentlemen, it would not only have been competent to him, but from the turn the cause has taken, it was made almost necessary. If Mr. Frost was drunk, as my learned friend wishes you to believe, from what Mr. Taitt said, though I think his evidence will bear no such sense ; was there no man up stairs who could have stated it ? was there no man who saw Mr. Frost in the course of that evening that could have stated it ? then what is it that Mr. Taitt says upon the subject ? he does not mean to say that he had not drank, he says he might be in liquor, and he did say, he did not doubt but he was in liquor, but he had not seen him before. The question is, whether, when he made use of those expressions, he made use of them as expressing his judgement upon the subject, and with the intent that this record ascribes to him, or whether he was so far bereaved of his judgement by ebriety as to stand before you, entitling himself to the benefit of this excuse, that he ought not to be answerable for the consequences of these acts upon that ground ? and it would be extremely strange if a Jury upon this ground could acquit Mr. Frost. Here are these gentlemen *respectable in their situation*, and what have they done ? according to what they conceived to be their duty as subjects of the country, they have been furnishing the means of this prosecution, and they have not thought that it would disgrace them, to bring before a Jury of their country Mr. Frost, to relate this story, that he stood in that situation of mind, in which my learned friend's cross-examination would endeavour to place him. Whatever is your verdict, it is contrary to my duty to press for it against your impression of the real nature of the case ; but the true question will be, (and here I will not avail myself at any length of that privilege my learned friend says belongs to me,) whether these words were advisedly spoken ? Mr. Frost goes into a public coffee-room, asserts that they were doing very well in France, and at the same time he asserts, that it was because there was a doctrine of Equality, and a doctrine of no King, at that time established ; but was it an Equality such as my learned friend has stated to you ? No ; the Equality of right to personal security, to personal liberty and property, and a right to equal laws, was asserted indeed

deed in the constitution of the year 1789 ; it was an Equality which left every man in possession of that situation which the constitution assigned Him, from the King on the throne to the meanest subject ; who would be equally entitled to the benefit of the law of the country as any man in it ; but that Equality did not live till the 6th of November, 1792.— Why then Equality might mean one thing, or it might mean another ; it might mean the Equality of 1789, or it might mean the Equality of 1792. Then a stranger comes up to Mr. Frost, and feeling a great deal of indignation at hearing this doctrine held, he says, Sir, what do you mean by Equality ? Now did the Duke of Richmond ; did Mr. Pitt, the present Minister of State, who has been alluded to ; did my learned friend, and the other persons, who are very respectable men, as I readily admit them to be, did they ever give such an answer as Mr. Frost gave ? I am free to declare this is a country in which every man has a right to his opinion temperately discussed. I am free to say with respect to my learned friend, I believe, he and some of the most respectable persons in the country, have their opinions upon that subject. I believe the actual quantity of political happiness that is enjoyed in this country, is upon the present system of government, far beyond that which the providence and favour of God has ever dispensed to any nation that ever lived upon the face of the earth. I have never been able to find in the discordant systems of those respectable persons argument enough to lead my mind to doubt for a moment, whether I should not sacrifice my duty to my country, if I risked a change upon any principles that they have stated ; but, Gentlemen, do not understand me to say, that I am wiser than they, far from it, but I say it is my duty to exercise my best judgement, and act according to it.

Gentlemen, What was the answer that Mr. Frost gave ? I will tell you what I mean by Equality, I mean no King. Have any of those gentlemen stated such language ? But that is not all, for that which is no act of deliberation is followed up by another question ; why surely you cannot mean that there is to be no King in this country ? says Mr. Frost, Yes, no King in any country. Why, Gentlemen, the single question is, Is it the law of England that these words can be spoken under such circumstances with impunity ? I am free to say, that upon the best information I can give myself upon the subject, I cannot feel a doubt that the law of England does not permit it. I say it is the law of England, that where men will hold language of this sort, they shall be deemed guilty of an offence against the law of England ; why then what am I to do, if I standing in this situation am to govern myself by the wisdom of the law ? I say it is my duty to submit to your decision the fact upon the law as it stands ; if my learned friend is satisfied that the law is not so,

he has one course before him, or if he thinks that the law ought not to be so, he has another before him. But is the Attorney General of this country to say, I will, in the regulation of my official conduct, take upon me to say, that I am wiser than the legislature of this country; I will enforce what I please, let the exigency of the country be what it may?

Gentlemen, in the first place it is to be observed, that the language of that act of Parliament is exceedingly strong with respect to malicious and advised speaking, and it points out to a Jury, that they are to have distinct evidence of the intention. This species of the intention may fall under a different consideration, but I do not wish to examine it upon a different consideration; because if in this case the words import the intent that the record attributes to them, you have that case in point of law, that justifies you in finding the Defendant guilty.

Gentlemen, having stated thus much, rather with a view of explaining my conduct to you, than for the purpose of troubling you with particular observations upon the evidence, I will leave the case here. I think upon the best consideration that I can give the case, that the late Attorney General did right to bring it before the public. I should not have appeared here to-day, if I had not thought it right so far as to bring it before the public, and the reason I do it, is, that when a considerable number of his Majesty's subjects in a *respectable situation* feel—my learned friend says, your verdict is to secure us from being in a situation like France—but when they feel that these words were uttered in a manner that has led them to think that some of the most valuable blessings they enjoy under the constitution of this country, wedded to it as they are, are in danger when this language is held publicly. I say it is fit, as between the Attorney General and such persons that a Jury of the country should say, whether such words shall be spoke with absolute impunity? It does appear to me that they ought not to escape with absolute impunity; but if you have any doubt in your minds, you will find a verdict for the Defendant.

L O R D K E N Y O N .

Gentlemen of the Jury,

I shall not add much to the trouble which you have already and necessarily had upon the present occasion. You are selected in *some measure* by the parties themselves, to judge between the parties, and you come here as all men must come, with the infirmities of human nature about you, and I will say in consequence of some sentences which fell from the learned gentleman of Counsel for the Defendant, towards the close of his speech, that if no Jury can conscientiously find a man guilty, who don't first find that their own nature is impeccable, it is in vain to

attempt

attempt hereafter to put in force the criminal law of the country ; neither Juries nor Judges are divested of their follies, the infirmities or the weakness of the nature to which they belong ; their own knowledge of their own weakness and infirmities will always urge them to look up with a favourable eye at the imperfections of others in doubtful cases ; but still, being in the arduous situation of administering justice, they will look at the case with their best understanding, and decide as their best judgement shall direct them to decide. The situation of advocates and judges differs, perhaps, pretty widely. The advocate urges every topic, sometimes those which may inform, sometimes those which may confound, sometimes those which may amuse the Jury, and sometimes those which may amuse a crowded audience.

How far the armies that entered the kingdom of France did right ; how far a number of gentlemen at the Thatched-house Tavern did right ; whether what they did was the result of wisdom, or the result of faction and folly, it is not for us to decide. We are not here to enter into the merits of any particular class of great men in the country, nor am I prepared, because my duty does not call upon me, and if it did, I am afraid my abilities would fail, to read you a lecture upon government ; it is enough in this country that we enjoy those blessings which the government of the country gives us ; whether they are the best or not the best, every man will judge for himself. Those who find that their liberty and their property, and every thing dear to them, is defended by *the even hand of impartial law*, will congratulate themselves that they live in that country ; and if they find that neither the history of foreign times, nor the present eventful times, produce any greater blessings than their own, they would feel it with gratitude under the providence of God, and endeavour to enjoy it with thankfulness.

Gentlemen, the offence of which the prisoner is accused, is, that he has with a seditious intention uttered the words that have been rehearsed to you so often, *Equality here* ; I see no reason why any man should not be put upon a footing with another ; it is every man's birth-right ; and being asked how he dared to hold such language in any public or private company, and what he meant by Equality, he said, why no King ; and being asked whether he meant to apply that observation to this country, he said Yes, *Equality here*, no King, the constitution of this country is a bad one. These, Gentlemen, are the words which the present Defendant is called upon by this prosecution to answer for the uttering of. Gentlemen, each of the learned Counsel, in their turn, have appealed to certain passages from the works of a most learned and excellent Judge ; I mean the late Sir Michael Forster. It is enough for me to say, that no passage that has been selected from that book, applies directly to the question

question before us ; but the question there was, whether words could be High Treason, or whether they could constitute an offence under an act of Parliament, made in the reign of Queen Anne, which subjected the party to the penalties of *premunire*, which are grievous indeed,—I think the loss of all his property and imprisonment; but it never can be said in any system of laws, which mean to prevent mischief, that factious and seditious words tending to subvert the government, are not the subject matter of inquiry in a criminal court of justice; it never has been said, I believe it never will. The only question that has been made, is how far they can constitute the crime of High Treason, or how far they can subject the parties to the penalties of that statute. If these words were spoken, if they were spoken in a connection which tends to explain them, and to do away the *prima facie*, obvious intention of them, I say, if they were spoken in a context which tends to explain them, and shew they were inoffensive words; let the context be received, let the favourable construction be put upon them; but if in your opinion there is no context to explain them, it is your duty undoubtedly, by weighing, and deliberating upon the question, to decide as your judgement shall lead you.

Now the first question is how far the words have been spoken, and in order to prove that they have been spoken, four witnesses have been called.

The first was Mr. Taitt, who gives an account of his being at the Percy coffee-house, and Mr. Frost coming down there, and in the coffee-house being asked by Mr. Yatman, what news from France, and answering all was going on well there, he then said, I am for Equality; this *be repeated* in a very loud tone of voice; he got off his seat and asked him who he was; Mr. Yatman said, this is Mr. Frost; upon which Mr. Taitt says, he asked him how he dared utter those words? *be still continued* I am for Equality and no King; Yatman asked him if he meant no King in this country? he said Yes, no Kings, the constitution of this country is a *very* bad one. He was asked upon the cross-examination, whether the man appeared to him to be sober or in liquor? he says he did not know him before, he did not know his manners, but from the words he used, he should rather suppose he was in liquor, but I do believe he perfectly understood what he said.

The next witness was Paul Savignac, who gives you the same account of the introduction of Mr. Frost into the coffee-house, and repeats to you in pretty much, if not exactly the same terms, the words that were used, I am for Equality and no King. Mr. Savignac then says, he was asked if he meant Equality, and no King in this country, and he says Yes, there ought to be no King.

The next witness who was called, Mr. Yatman, I think, repeats in pretty much the same manner. And then Mr. Bullock comes, who put down the words as they occurred to him soon after, which he wished to be signed by the persons in the room, but it was not signed.

Gentlemen, This is the evidence on the part of the prosecution. It has been observed to you that these words were uttered *at a critical time* in the country, and Gentlemen, I have the highest authority, I think, when I appeal to the works of Mr. Justice Forster, though upon this occasion, I have not looked into them, *not knowing that the words were, nor what the nature of the prosecution was*. But I think he states that words might bear different meanings, according to the season in which they were spoken, and that those words were deemed high treason in the time of King Charles, when the mob were round the house of the Archbishop of York, which might not have been so applied if they had been spoken in other times.

Gentlemen, What the times were, every individual in the country, who is capable of thinking, has formed his judgement upon; that there were a vast number of the mass of those people who had nothing to do with ministry, and who knew nothing of ministry, and who cared nothing about ministry; that though the times were perilous, that great dismay had scattered itself all over the country, one has learned from the resolutions, and from every individual one has conversed with, there are those who thought otherwise, and there might be some perhaps who might rejoice in the confusion of the country, some people perhaps might. It is not necessary for me to express my opinion upon the occasion, but undoubtedly, if you think those words were spoken *in seasons, when seditious words might be the fore-runners of seditious acts, and that men's spirits were inflamed, and might from small beginnings take fire and might be brought into action, it adds most immensely to the criminal construction you ought to put upon the words*: but, Gentlemen, *it is not for us to penetrate with absolute certainty into the hearts of men*, that is the business of the great Disposer of all things, and the judge of men; but we have an opportunity of judging from overt acts, whether guilt belongs to them or not. If any reason can be assigned why those words were used, let the reason be assigned, and let a favourable construction be put upon what is assigned as the reason; but without any clue to lead us, without any thing but the words expressed in the terms which I have stated to you, we must from those premises draw our conclusion. I am sorry for the individual who is subject to criminal law, for no man rejoices in the punishment of another; but punishment is inflicted as an example to the sons of men, that they may err in that course to which they see conviction and punishment annexed.

Gentlemen, It is for you in this case to do justice between the public, carrying on the prosecution by the Attorney General, and the individual. If the question hangs in even scales, inclination must be on the side of mercy ; but if you find the whole evidence, and the great bite of the argument in favour of the prosecution, you are bound to discharge your duty to God and your country, and pronounce him guilty of the offence. It is with you to consider.

The Jury, not being agreed, retired from the Court about twelve o'clock, to consider of their verdict, and returned into Court about half past one o'clock, and delivered in their verdict to the Court, that the Defendant was Guilty.

ON Wednesday morning, June 19, 1793, Mr. Frost attended to receive the Judgement of the Court. Mr. Erskine addressed the Court shortly in mitigation of the punishment. Mr. Attorney General prayed the sentence of the Court, with great mildness and candour, submitting the whole matter to the Judgement of the Court, without praying any specific punishment.

Mr. Justice Ashurst then pronounced the Judgement of the Court as follows :

John Frost, you have been convicted upon an indictment preferred against you, for publicly speaking several scandalous and seditious words, tending to lessen in men's minds, that love and veneration which every honest and good man ought to entertain for our wise and happy constitution, and likewise to withdraw the affections of his Majesty's subjects from his Majesty's royal person and government, and to stir up their minds against all kingly power.

The words that are laid in the indictment, as spoken by you, are these, " I am for Equality ; I see no reason why any man should not be upon a " footing with another, it is every man's birth-right," And the indictment further states, that *being asked* by some of the persons then present, how you dared to hold such sentiments in any public or private company, and what you meant by Equality ? you replied, " Why, no Kings;" and being further asked, if you meant no King in this country ? you said, " Yes, no King ; the constitution of this country is a bad one," meaning thereby that the constitution of this realm was bad.

These are the words, that are alledged to have been spoken by you. That constitution which you have thus attempted to traduce and vilify, was planned by wiser heads and better hearts than your's; it has stood the test of ages, and I trust, it is out of the reach of your malice, or of any man of such description as yourself; but though that be the case, it does not from thence follow, that you are to be suffered to vent your malice against it, however impotent, with impunity. The words which you have uttered, argue a malignity of heart, and it stands in need of correction, and shews, that if you had the power, your inclination is ripe for any mischief against your King, your country, and the constitution. One might have expected, that being so lately returned from France, it must decidedly

decidedly have convinced you of the superior advantages to be derived from a free constitution, and of that safety and protection which all his Majesty's subjects experience under its happy influence, when compared with that universal anarchy and confusion with which that unfortunate country is overrun; but there may, perhaps, be too much reason to suspect, that you did not go into that country with any view of bringing back any good and wholesome lesson to your countrymen. It has been said in excuse for you, that you was in liquor at the time you uttered these words; that excuse was not proved; the words are laid to be advisedly and seditiously spoken, *and the Jury have found them to be so.** At best it is a bad excuse, that one crime should be alledged, as an excuse for another.

There is another circumstance, which is an aggravation of your crime, which is from the situation of life in which you are as an attorney, you must have taken the oaths of allegiance to the King; these words that you have uttered, shew, in your conduct and your carriage, how very little regard you have paid to the oaths you have taken; that therefore is a high aggravation of your offence.

The Court have taken all these circumstances into their consideration, and upon mature deliberation, the sentence of the Court is—That you be imprisoned in his Majesty's gaol of Newgate for six calendar months,

* By referring to the speech of the Defendant's Counsel it will be seen, that he contended strenuously, that, unless the words were *deliberately* and *advisedly* spoken, he ought not to be convicted; and cited for this argument the authority of Forster: but by referring also to the summing up of the Chief Justice, page 48 and 49, the reader will see that his Lordship did not recognise this doctrine; but told the Jury that the authority of Forster, with regard to words *advisedly* and *deliberately* spoken, applied only to cases of High Treason within the Statute of Queen Anne, and not to seditious words prosecuted as a misdemeanor; and that therefore it was not necessary, to found a conviction, that the Jury should believe the words to have been uttered *advisedly* and *deliberately*. It follows, therefore, from this statement, (the correctness of which is evidenced by the trial itself,) that the verdict of the Jury did not necessarily imply, that they found the words to have been *deliberately* spoken, since they were told, that such belief was not necessary to found their verdict; and consequently that there was no foundation from the Report for building any part of the Judgement upon such a finding of the Jury: because the indictment did not charge in terms that the words were ***ADVISELY*** spoken, and (as has been said before) the Jury were told by the Judge at the trial, (whose directions they must be supposed to have followed,) that such a finding was not necessary as a sanction to their verdict of Guilty.

and that during that time you do stand in and upon the pillory at Charing Crois for the space of one hour, between the hours of twelve and two; and that after the expiration of your imprisonment, you do find sureties for your good behaviour for the space of five years, yourself in 500l. and your two sureties in 100l. each; and that you be further imprisoned until such sureties be found.

Lord Kenyon. — And also struck off the Roll of Attorneys of this Court.

6/14/n

P I N I S.

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* * * It is not for the Proprietors of the Authentic Trial of Mr. MARGAROT to develop the Motives of Mr. Ramsey, in lending his Aid to this Violation of Right, all which is at present deemed necessary to be stated is—that Mr. Ramsey received 40l. for the Short Hand Copy, printed in London for M. MARGAROT, H. D. SYMONDS, and J. RIDGWAY; and that Mr. R. could not be ignorant of this unjustifiable Transaction is evident, from his being at Edinburgh, and positively living in the House of Mr. Robertson at the Time the Spurious Account was printing.

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